SUPREME COURT OF THE UNITED STATES.

No. 121.

THE UNITED STATES, APP'TS,

vs.

PEARSON B. READING.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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Office of the Board of Commissioners to ascertain and settle private land claims of the State of California.

Be it remembered that on this ninth day of February, anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Pearson B. Reading, for the rancho of Buenaventura, was presented and ordered to be filed and docketed No. 28, and is as follows, to wit:

PEARSON B. READING, claimant,
vs.
THE UNITED STATES, defendant. } No. 28.

To the honorable the Board of Commissioners for settling private land claims in California.

The petition of Pearson B. Reading respectfully submits to your honorable Board the accompanying grant and translation of the tract of land known by the name of Buenaventura, which grant was made to your petitioner by Gov. Micheltorena, on the 4th December, 1844, by virtue of the colonization law of Mexico, of the 18th August, 1824, and the instructions under said law, dated Nov. 21st, 1828. The quantity of land contained in said "land" grant is six leagues (de ganado mayor); its locality is on the river Sacramento, between the "creek called Lodo and the island called Langre," and there is no conflicting claim.

The evidence upon which your petitioner relies is the testimony of witnesses, who will be produced before your honorable Board, respectfully submitted for such action as the nature of the case may require.

(Signed) CROSBY & ROSE,
For petitioner.

Filed Feb. 9th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SATURDAY, *March 27th*, 1852.

In case No. 28, Pearson B. Reading, the deposition of John Bidwell, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit: (Vide page 43 of this transcript.)

In the same case the deposition of Samuel J. Hensley, a witness in

behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit: (Vide page 50 of this transcript.)

MONDAY, *March 29th*, 1852.

In case No. 28, Pearson B. Reading, the deposition of Henry L. Ford, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit: (Vide page 53 of this transcript.)

FRIDAY, *April 9th*, 1852.

In case No. 28, Pearson B. Reading, the deposition of David Spence, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed and is in the words and figures as follows, to wit: (Vide page of this transcript.)

THURSDAY, *April 22d*, 1852.

The following cases set for hearing to-day were continued to Thursday, the 29th inst., to wit:

No. 28, Pearson B. Reading, "Buenaventura."

No. 50, Cruz Cervantes, "San Joaquin alias Rosa Morada."

In case No. 28, Pearson B. Reading, on motion of the counsel for the claimant, the following order of survey was granted, to wit:

No. 28, Pearson B. Reading, "Buenaventura." For the purpose of determining with precision the limits and boundaries of the land claimed by Pearson B. Reading in his petition No. 28, pending before the commissioners, it is, on motion of E. O. Crosby, of counsel for the claimant, ordered that an initiatory survey under the superintendence of the United States surveyor general of California be made of the lands known by the name of "Buenaventura," to the extent of six sitios de ganada mayor, within the limits of the river Sacramento, the creek called Lodo or Salt creek, and a point on the west bank of the Sacramento river, opposite Bloody island, running thence westerly along the south bluff of Cotton Wood creek and vacant and sterile lands, locating the said quantity of said six sitios, according to the claim of said Reading, and having reference to the sketch or plan annexed to his petition, but in such manner as to confirm such location within the said limits, and to include in the survey, so to be made, the said quantity of six sitios.

But this order is not in any manner to determine, as against the United States, either the question of title, the construction of the grant, the locating boundaries, or extent of the land to which the claimant may be entitled.

SATURDAY, *May 1st*, 1852.

Case No. 28, Pearson B. Reading, set for hearing Thursday, May 6.

THURSDAY, *May 6th*, 1852.

Case No. 28, Pearson B. Reading, Buenaventura, called, and on

motion of the counsel for the claimant, with the consent of the U. S. land agent, continued to Thursday, 13th inst.

TUESDAY, *May* 11*th*, 1852.

In case No. 28, Pearson B. Reading, the deposition of John A. Sutter, a witness in behalf of the claimant, taken before Commissioner James Wilson, was filed and is in the words and figures as follows, to wit: (Vide page of this transcript.)

FRIDAY, *May* 14*th*, 1852.

In case No. 28, Pearson B. Reading, the deposition of David Spence, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit: (Vide page of this transcript.)

TUESDAY, *May* 18*th*, 1852.

Case No. 28, Pearson B. Reading, set for hearing on Tuesday, 25th inst.

TUESDAY, *May* 25*th*, 1852.

The following cases were called and continued, to wit:
No. 28, Pearson B. Reading. No. 56, Cruz Cervantes.

TUESDAY, *June* 1*st*, 1852.

The following cases were set in their order for hearing, to wit:
No. 28, Pearson B. Reading, &c., &c.

THURSDAY, *June* 17*th*, 1852.

Case No. 28, Pearson B. Reading, Buenaventura, called and continued.

TUESDAY, *June* 22*d*, 1852.

Case No. 28, Pearson B. Reading, "Buenaventura," called, argument opened by Mr. R. Rose, counsel for the claimant, answered by the U. S. land agent, and continued until to-morrow, 12 o'clock, M.

WEDNESDAY, *June* 23*d*, 1852.

Case No. 28, Pearson B. Reading, "Buenaventura," called, argument by the U. S. law agent, resumed and concluded, and the case taken under advisement by the Board.

In the same case, the following agreement was entered into by and between the parties litigant, by their respective counsels, to wit:

P. B. READING
vs.
U. STATES.

In the matter of the claim of Pearson B. Reading vs. U. States, it is agreed by and between the counsel in this case and the law agent, that

the law of colonization of the government of Mexico, of the 18th of August, 1824, and the instructions made pursuant to said law of 21st Nov. 1828; the letter of instructions by the supreme government of Mexico, to Gov. Micheltorena, of 11th Feb. 1842, and all other laws, regulations, orders and instructions applicable to the case, be considered as evidence in the case.

(Signed) CROSBY & ROSE.
GEO. W. COOLEY,
U. S. Law agent.

San Francisco, June 23d, 1852.

Filed June 23d, 1852.
(Signed,) GEO. FISHER, *Sec'y.*

WEDNESDAY, *June* 30, 1852.

In case No. 28, Pearson B. Reading, for the place called "Buenaventura," the counsel for the claimant submitted an authenticated copy of the original Spanish expediente on file in the office of the U. S. surveyor general for California, which copy, marked exhibit B, and the translation thereof, marked C, were filed with the petition in this case, on the 9th of February, 1852, as evidence in behalf of the claimant, and are as follows, to wit: (Vide page of this transcript.)

WEDNESDAY, *July* 21*st*, 1852.

In case No. 28, Pearson B. Reading, "Buenaventura," the U. S. law agent filed an agreement between the parties litigant, relative to the admission of evidence, which is in the words following, to wit:

Claim of P. B. Reading to six square leagues of land on the Sacramento river.

Before the U. S. land commissioners for ascertaining and settling private land claims in California.

It is hereby agreed, between the above named claimant and the United States, that all laws, orders, regulations, and decrees applicable to the questions arising in said claim, are to be considered as in evidence and taken as proved, in the investigation and adjudication of said claim by the board, and by the courts, in all its subsequent stages, up to a final decision, including particularly the law of the Mexican Congress of August 18, 1824, and the regulations, under said law, of the 21st November, 1828, relating to colonization.

GEO. W. COOLEY,
U. S. Law agent,
(Signed) E. O. CROSBY & R. ROSE,
Attorneys for claimant.

San Francisco, July 19, 1852.

MONDAY, *August* 9, 1852.

In case No. 28, Pearson B. Reading, for the place called "Buena-

ventura," Commissioner Hiland Hall delivered the opinion of the board, declaring the claim valid. The entering of the decree of final confirmation being reserved for a future day.

TUESDAY, *December* 14, 1852.

In case No. 28, Pearson B. Reading, for the place called "Buenaventura." A communication was received from the U. S. surveyor general for California, transmitting a copy of the map and field notes of survey of the said rancho of "Buenaventura," and is as follows, to wit: (Vide page of this transcript.)

SATURDAY, *December* 18, 1852.

Case No. 28, Pearson B. Reading, for the place named "Buenaventura," Commissioner Harry J. Thornton delivered his opinion in this case.

In the same case, Commissioner Hiland Hall delivered the decree of final confirmation of this board.

Ordered, that the opinion of this board, delivered by Commissioner Hiland Hall on the 9th of August, 1852; the opinion of Commissioner Harry J. Thornton, delivered this day, and the decree of final confirmation of this board, also delivered this day in this case, be recorded on the journal.

Which opinions and decree are in the words and figures as follows, to wit:

Opinion delivered by Commissioner Hiland Hall.

Pearson B. Reading petitions the board of commissioners for a confirmation to him of six leagues of land, to which he claims title under an alleged grant from the Government of Mexico.

Testimony having been taken in support of the claim, and the case having been argued by counsel for the petitioner, as well as by the law agent in behalf of the United States, it has become our duty to pass upon it.

It appears from the documentary evidence produced in the case, the authenticity and genuineness of which is shown by parol proof, and by the public archives in the surveyor general's office, that the claimant presented a petition to Manuel Micheltorena, Governor of the Department of the Californias, for a grant of a tract of land, known by the name of Buenaventura, situated on the Sacramento river; that the petition was accompanied by a rough design or part of the land asked for, and also by a written statement of Captain John A. Sutter, at that time having civil and military jurisdiction of the district in which the land was situated, declaring it to be vacant and unoccupied, and to be the farthest towards the frontier of any land that has been petitioned for. It farther appears by such documentary evidence, that the said petition was on the 1st day of December, 1844, referred by the governor to the secretary of the department, who on the same day reported

the law of colonization of the government of Mexico, of the 18th of August, 1824, and the instructions made pursuant to said law of 21st Nov. 1828; the letter of instructions by the supreme government of Mexico, to Gov. Micheltorena, of 11th Feb. 1842, and all other laws, regulations, orders and instructions applicable to the case, be considered as evidence in the case.

(Signed) CROSBY & ROSE.
GEO. W. COOLEY,
U. S. Law agent.

San Francisco, June 23d, 1852.

Filed June 23d, 1852.
(Signed,) GEO. FISHER, *Sec'y.*

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It is hereby agreed, between the above named claimant and the United States, that all laws, orders, regulations, and decrees applicable to the questions arising in said claim, are to be considered as in evidence and taken as proved, in the investigation and adjudication of said claim by the board, and by the courts, in all its subsequent stages, up to a final decision, including particularly the law of the Mexican Congress of August 18, 1824, and the regulations, under said law, of the 21st November, 1828, relating to colonization.

GEO. W. COOLEY,
U. S. Law agent,
(Signed) E. O. CROSBY & R. ROSE,
Attorneys for claimant.

San Francisco, July 19, 1852.

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that the petitioner was an honest man, and that the land was vacant, and might be granted him; that the 4th December, 1844, the governor made a brief decree under his hand, that the title might issue, and that such title or grant, bearing the same date, was duly issued to the claimant, signed by the governor and countersigned by the secretary.

This title or grant purports to pass the land to the grantee, in full property, subject to the approval of the departmental assembly, and to certain conditions, as they are termed in the grant, which are similar to those found in other California title papers of that period. The only conditions which it is material to mention are those which relate to the building of a house within a year, and causing it to be inhabited, and to the procurement of judicial possession; there being no evidence or suggestion that any other of the conditions has been violated.

In regard to the first of these conditions, the proof is, that the claimant, in August, 1845, went on the land and left a Frenchman there to build a house and keep possession; that in the fall of the same year he put a stock of horses and cattle on the land, and that the Frenchman continued living in the house and in charge of the stock for some time, but was driven off before the next spring by the Indians, who had become hostile, and that the house was burnt by them.

The unsettled state of the country, growing out of the hostility of the Indians and the subjugation of California by the United States, prevented the farther occupation of the land until the month of June, 1847, when the claimant resumed the possession, built a house, and put on horses and cattle, and has resided on the land ever since, cultivating it and raising stock.

Judicial possession of the land does not seem to have been given; the proof however is, that such judicial possession was solicited by the claimant of Captain John A. Sutter in the spring of 1845. That Captain Sutter was at that time, and ever after, while the Mexican government was acknowledged in California, the only officer within the district in which the land was situated, who was authorized to give such possession, and that he neglected to give it, in consequence of the distance of the land (150 miles) from his residence, and his constant public duties, growing principally out of the unsettled political affairs in the territory.

There is no evidence that the grant has been approved by the Departmental Assembly.

The land is not within the territorial or twenty border leagues mentioned in the Mexican colonization law of 1824.

There is no doubt that the granting officer was possessed of all the authority to make the grant, which had been conferred on any of the governors of California, and its genuineness is unquestioned. The objections made to its confirmation by the law agent arise of the alleged want of performance by the claimant of the conditions inserted in the grant, and the want of approval by the departmental assembly.

In regard to the condition which requires the building of a house within a year, we think the proof shows it has been complied with. A

house was built within the required time, and it was inhabited until the claimant's agent was driven away by the hostility of the Indians, and the house destroyed by them. Another house was erected as soon as the state of the country became sufficiently settled to render it safe to occupy the land, and it has been occupied ever since. We do not find any just obstacle in the way of the confirmation of the claim, growing out of this objection.

The words of the grant in relation to the judicial possession are these: "The land which has been granted is of the extent of which mention is made. The judge who shall give the possession shall cause it to be measured according to ordinance, and the overplus, which may result, shall remain to the nation for its convenient uses."

There is nothing in this language which properly entitles it to the name of a condition. It requires nothing to be done by its grantee, but is only instructive and directory to the officer who may perform the service of giving such possession. It would be a perversion of language to hold that this simple direction to the officer in regard to the method of performing a duty in which the grantee is not alluded to, should be construed into an absolute requirement of him, for the non-performance of which his grant should become forfeited.

Forfeitures are not favored either by the civil law or in equity, and there does not appear to be any thing in the terms of this grant which should inflict so severe a penalty on the grantee for the mere failure of the officer to give such possession. Indeed from the testimony it would seem that the grantee had done all that could be done on his part to obtain such possession. A few months after the grant he sought to obtain such possession from the only officer having authority to give it, within the district in which the land was situated, who, for reasons beyond the control of the claimant, neglected to give it during the continuance of the Mexican authority in the territory.

It is difficult to conceive what more could be required of the grantee, upon the most rigid construction against him of the language of the grant.

No Spanish or Mexican law or authority has been produced, to show that grants have ever been held forfeited to the government by the failure of the party to obtain judicial possession when possession of the land in fact had been taken, and it is presumed that none can be found. Such delivery of possession, accompanied by the measurement of the land, and the placing of land marks, was at most but a substitute for a survey, by which the land was to be separated and distinguished from the lands of others and of the government.

This survey has been held by the Supreme Court of the United States not to be essential to the validity of Spanish titles, which titles have been confirmed by that court, under surveys ordered by the court when they had been neglected under the former government. United States *vs.* Arnedando, 13 Peters, 133; United States *vs.* Levy, 13 Peters, 133; United States *vs.* Forbes, 15 Peters, 173.

What might be the effect of a judicial possession actually given,

upon the location, extent and boundaries of land described in a grant made by the Spanish or Mexican government, when such possession should be found to vary from the description contained in the grant, or where such description was vague and indefinite, in questions which do not arise in the present case, and upon which no opinion is intended to be expressed? We do not think the want of such possession in this case furnishes any valid objection to the confirmation of the claim. The remaining objection to the claim is founded upon the want of approval of the grant by the departmental assembly.

By the regulations of the executive government of Mexico, of Nov. 21st, 1828, made for carrying into effect, within the territories of the Republic, the colonization law of the Mexican Congress, of August 18th, 1824, and under which all titles were subsequently issued in California, the governors of the territories were authorized to make grants of land; but it was provided by section 5 of the regulations, that the grants of the governor should not be definitely valid, without the previous consent of the territorial deputation.

In the present case, although the claimant had received a formal title paper from the granting office, and under it had taken possession of the land previous to the occupation of the territory by the troops of the United States, and was in the quiet enjoyment of it at the time of the treaty of cession by Mexico; yet as something more remained to be done to perfect his title, viz: the approval of the grant by the departmental assembly, his title must be held to be an incomplete and imperfect one.

It does not, however, follow, because the claimant's title was imperfect, that we must necessarily decline to confirm it. The authority of this commission, by the 8th section of the act under which it was constituted, extend to all claims to lands in California, "made by virtue of any right or title derived from the Spanish or Mexican governments," and consequently embraces incomplete rights and titles as well as those which had been fully consummated. Indeed the leading object of constituting this commission, so far as the interest of claimants was concerned, was, as I conceive, to act upon titles of an incomplete and imperfect character. Land, to which a party at the time of transfer of the territory of California to the United States had a full and perfect title under the Mexican government, would to all intents and purposes be private property, and would, in obedience to the law of nations and the stipulations of *of* the treaty, be protected by the ordinary judicial tribunals, without any previous special confirmation of title. But if, notwithstanding some steps had been taken by the Mexican authorities towards the appropriation of the land to the ownership of an individual, there still remained in the government any interest in the land, such interest would pass to the United States by the transfer and treaty; and in order to render the right and title of the individual available, a relinquishment of such interest of the United States would be required.

This relinquishment on the part of the United States this commission is authorized to make; and in determining upon the justice and propri-

ety of making it, the commissioners are directed in the 11th section of the act under which they are constituted to "be governed by the treaty Guadalupe Hidalgo, the law of nations, the laws, usages and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States so far as they are applicable."

The question is, whether, according to the principles thus laid down, this claim is entitled to confirmation. By the treaty with Mexico thus referred to, the inhabitants of the ceded territory were, among other things, to be protected in the free enjoyment of their property. The term property, used in the same manner in the treaty by which Louisiana was acquired by the United States, has been repeatedly and uniformly held by the Supreme Court of the United States to comprehend lands held by every species of title, whether inchoate or complete, embracing those rights which lie in contract, and are executory, as well as those which are executed. Sanland *vs.* United States, 4th Peters, 50. Delassus *vs.* United States, 9th Pet. 117. Smith *vs.* United States, 10th Peters, 326. 11 How. 63.

In conformity with this construction of the word "property," in the Louisiana and also in the Florida treaty, numerous boards of commissioners have been constituted to report and act upon inchoate and imperfect titles issued by the Spanish authorities.

The act of Congress of May 26th, 1824, which gave appellate jurisdiction to the Supreme Court of the United States, and under which the decisions which are made one of our principles of action upon the titles in California, limits and confines the authority of that court to titles which are imperfect. Such incomplete titles have, uniformly, been confirmed by boards of commissioners, by Congress, and by the Supreme Court, whenever the principles of justice and equity seemed to demand it. The broad principles which are laid down for our government appear to require us to do the same in regard to incomplete titles protected by the treaty with Mexico.

The imperfect titles arising under former treaties were of different characters, in different sections of the ceded territory, and it would be tedious to describe them in detail. As an example, it may be mentioned that nearly all the very numerous claims to land in upper Louisiana rested on concessions made by the lieutenant governor of that province, who, in the concessions themselves, admitted and declared, that he had no authority to grant the lands, and that the concession was given in order to enable the interested party, after making a survey, to solicit the title in due form, the intendant general "to whom (it was usually stated in the concession) alone belonged, by royal order, the granting and distributing all classes of land belonging to the royal domain."

Notwithstanding these express declarations of the want of authority on the part of the lieutenant governor to make grants, the commissioners to examine these titles, under the act of July 9th, 1852, "for the final adjustment of private land claims in Missouri," adopted a resolu-

tion as a principle for their government in acting upon them, "that what are called incomplete grants by the custom and practice of the country were recognised as property, capable of passing by decrees, transferable from one to another, and are liable to be sold for debts;" and holding such concessions to be protected by the treaty, proceeded to confirm them, whenever they appeared to be genuine, and were not otherwise objectionable. (Report of Com., 5 Green's Land Documents.) This action of the commissioners was approved by Congress, and similar principles have since been acted upon by the Supreme Court under the act of May, 1824, above referred to.

By an examination of the Mexican archives now in the surveyor general's office, and of authenticated copies on file in the office of the secretary of this board, it is found that at the time of the conquest of California by the United States, a very large portion of the land in the occupation of its inhabitants was held by titles wanting the approval of the territorial *territorial* or departmental assembly. For several years previous to this time, the political affairs of the territory had been in some confusion. The deputation had seldom been called together, and when assembled its sessions had been either very brief, or occupied with the consideration of pressing matters of a public character. It was the duty of the governor, by the regulations of 1828, to present the grants to that body for their approval, but under these circumstances such duty had been greatly neglected, and consequently many grants remained unacted upon. The assembly had rarely disapproved a grant that had been made by the governor, and there seems no reason to doubt that the great mass of the titles which remained unapproved would have readily obtained the approbation of the assembly if they had been presented to that body at the time when the attention of its members could have been directed to their consideration.

By the custom and practice of the country, as shown by the acts of the governors, the territorial and departmental assemblies, and judicial tribunals, the evidence of which is found in the public archives and authenticated copies before mentioned, and of which I think we may and ought for general purposes take judicial notice, it is fully shown that incomplete titles, of the character of that under which the present claim is made, were like those in Upper Louisiana, treated and considered as property. They were devised by will and inherited, distributed among heirs and devisees by the proper tribunals, transferred by instruments of conveyance, and sold under insolvent laws for the payment of debts.

Under these circumstances it seems difficult to resist the conclusion, that the title of the claimant in this case, though imperfect, is such an one as was intended, under the denomination of property, to be protected by the treaty, and one which it would be the duty of this board to confirm.

There is another consideration which appears to me entitled to some weight in the application of the principles of equity to Mexican land titles in this State.

The government of the United States first acquired possession of California by conquest, and under circumstances imposing a strong obligation on its government to protect and maintain its people in all their just rights, and particularly in regard to their rights and titles to land. In the year 1845, in anticipation of a war with Mexico, a naval force was ordered to the Pacific, with secret instructions to its commander, Commodore Sloat, that in case he should receive information of the existence of such war, he should immediately take and hold possession of California; and in the performance of this duty, very general and extensive powers were confined on him. On the 7th day of July, 1846, the commander having obtained information of the commencement of hostilities between the two countries, landed a body of seamen and marines at Monterey, the capital of the territory, took formal possession of the place, and declared that he should hoist the flag of his country, immediately, in Monterey, and should carry it throughout California. It invited the inhabitants of the territory to submit, without resistance, to the authority of the United States, and promised them protection in their persons, property, and religion, and also high political privileges under the new government that was about to be extended over them. Amongst the engagements thus made by this proclamation was one in relation to land titles, in the following words: "all persons holding titles to real estates, or in quiet possession of lands under color of right, shall have those titles guarantied to them."

On the arrival of the forces of the United States at the custom-house in Monterey, the proclamation was read to the assembled inhabitants and then posted up in different parts of the town, both in Spanish and English, and distributed through the territory.

There can be no doubt that Commodore Sloat was fully authorized to make the engagements to the people of California which were contained in his proclamation, and that a most solemn obligation was thereby imposed upon the Government of the United States, to perform them in the sense and in the spirit in which they were made and understood. It is impossible to say, precisely, what influence those promises and engagements in behalf of the United States (which were afterwards substantially repeated in several other proclamations) had in enabling the forces of the United States to complete and maintain the conquest of this territory. The principal part of the property of the inhabitants of the territory consisted of lands and the stock for which the lands furnished sustenance; and it cannot be doubted that a solemn engagement to maintain the inhabitants in their titles, whether they were of a perfect character, or were held under a code of right, would be strongly calculated to lessen the motives of resistance, and to render the conquest of the country more easy and expeditious.

It may be that those who resisted with the greatest energy and perseverance finally lessened their efforts and surrendered to the invaders, relying on the faith of this solemn engagement.

It cannot be doubted that many remained neutral in consequence of it. And who can say that that active and efficient body of volunteers,

composed of inhabitants of California, whose services most essentially contributed to the first and final conquest of the country, and without whose aid the efforts to conquer it might have been wholly unsuccessful, could have been induced to enter into and continue in the service of the United States, but for this solemnly pledged faith of the government to protect and maintain them in the enjoyment of their property.

It appears from the evidence in the case, that the claimant, Pearson B. Reading, was an officer in the before-mentioned body of California volunteers, from its first organization in the month of June, 1846, and that he continued to serve in the battalion, until it was disbanded in the month of May, 1847; when he returned to re-occupy his land, which occupation, for the reasons before stated, had been temporarily relinquished.

If the claimant in this case had applied to Congress for a confirmation of his title, on the ground that the faith of the nation had been pledged to protect and maintain it, and in consequence of which plighted faiths he had risked all his property in the territory, and periled his life in the service of the government, I do not perceive how the claim could be justly resisted. I am by no means clear that it is not a matter proper to be considered by this board of commissioners in applying the principles of equity to the determination of the validity of the claim. It would certainly be a strange sort of equity that should allow us to disregard the plain demands of justice, and sanction a palpable violation of the faith of the nation.

On the whole, we are of the opinion, that in accordance "with the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages, and customs of the government from which the claim is derived, the principles of equity and the decisions of the Supreme Court of the United States," the claim of Pearson B. Reading ought to be confirmed.

The entry of a final decree will be reserved to a future day.

(Signed) HILAND HALL, *Comm'r.*

Opinion delivered by Commissioner Harry J. Thornton.

I concur fully in the result announced in the opinion read by Commissioner Hall, "that this claim ought to be confirmed."

The reasons which have brought my mind to this result are not altogether consonant with those expressed in the opinion above delivered. The considerations on which my determination is founded have been already fully set forth by me, in the opinion on file in the case of Cruz Cervantes, No. 56 of the docket of this board.

(Signed) HARRY J. THORNTON, *Comm'r.*

Decree of final confirmation.

This board, on full consideration, for the reasons in the opinion above in this case filed, on the various grounds affecting the validity of the said claim, having come to the conclusion that the said claim is valid, therefore now proceeds to make, and does hereby make, the following decree, or report of confirmation, viz: It is decreed that the said

claim be confirmed to the extent and quantity of six square leagues, being the same land described in the grant, and of which the possession was proved to have been long enjoyed. Provided, that the said quantity of land granted, and now here confirmed to the claimant, be contained within the boundaries called for in the said grant and map to which the grant refers, and if there be less than the said above-named quantity within said bounds, then we confirm to said claimant that less quantity; it being apparent that the said quantity exceeds the minimum of two hundred varas, prescribed by the regulations of the 21st November, 1828.

(Signed) HILAND HALL,
HARRY J. THORNTON,
Comm'rs.

No. 35—Copy.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, SAN FRANCISCO, *March 20th*, 1852.

SAMUEL D. KING, ESQ.,
Surveyor General:

SIR: There is pending before the board of commissioners a petition in favor of Pearson B. Reading, being No. 28 on the docket of the board, claiming a tract of land under a grant from Governor Micheltorena to Pearson B. Reading, dated December 4th, 1844, which tract of land is called "Buenaventura," and is described as follows:

Its locality is on the borders of the river Sacramento, between the creek called "Lodo" and the island called Sangre, comprising six sitios de ganada mayor.

Will you please inform the board, whether the Mexican archives in your office show that such a grant was made; whether it was approved by the territorial or departmental deputation, and when; whether the papers relating to said grant appear in all respects fair and genuine, and whether any particular circumstances have come to your knowledge calculated to cast suspicion on the fairness and validity of the claim.

Very respectfully, yours,

(Signed) GEORGE FISHER,
Secretary.

SURVEYOR GENERAL'S OFFICE,
SAN FRANCISCO, *March 29th*, 1853.

To the Secretary of the Commissioners of California Land Claims:

SIR: In reply to your inquiry No. 35, I have the honor to state, that the only evidence that has been found among the archives, as transferred to this office, purporting to show that such a grant was made as is specified in your inquiry, is an entry in the book of records of grants in 1844, as follows:

"D. Pearson B. Reading, en 4 de Decembre, se le dio titulo en al Rio Sacramento, de un tenun de seis sitios de ganado mayor."

There is also a document in the shape of an expediente filed in the archives, on the 6th February, 1852, by Robert Rose, esq., attorney, purporting that such a grant was made.

The signatures of several officers under the Mexican government are appended thereto.

Very respectfully, yours,
SAMUEL D. KING,
Surveyor General.

Sello Cuarto.—Dos Reales.

Habilitado por la aduana maritima del puerto de Monterey, en el departmento de las Californias, para los años de mil ochocientos cuarenta y cuarto y mil ochocientos cuarento y cinco.

[ADA MARD'A DE MONT'Y.] MICHELTORENA,
Pablo de la Guerra.

Pearson B. Reading, natural de los E. M., y residente en este pais desde el año 1842, ante V. E., con el mas profondo respeto me presente y digo:

Que hallandomo poseedor de algunos bienes del campo y deseando dedicarmo ala agricultura suplico a V. E. tenga la bondad de concederme el terreno conocido con el nombro de Buena Ventura, situado a la omilla del rio Sacramento y son sus linderos al N. tierra baldia al E. el rio del Sacramento al S. y O. tierras baldias y sierras como manifiesta al adjunto diseño. P. F.

(Filed in the archives 6th Feb'y, 1852, by R. Rose, attorney, &c.
SAM'L D. KING, *Sur. Gen'l.*)

A V. E. suplico se digne acceder a esta mi petician en lo que recibire merced y gracia.

Monterey. PEARSON B. READING.

E. S. GOBARNADOR: El interesado en esta instancia es hombre de bien, y por el informe que accompaña aperece que el terreno que pide esta baldio y en estado de poder se conceder, pero la supr. disposicion de V. E. resolbera lo mejor.

Monterey, 1° de D'bre, de 1844.

MANUEL JIMENO.

Monterey, Dec'bre. (3 S. D. K.)

Dec'bre 4, de 1844.

Espidaso el titulo.

MICHELTORENA.

Se toma razon a fojas, 6 va.

Jurisdicion del Rio Sacramento.

(4 S. D. K.)

Filed in the archives, 6th Feb'y, 1852, by R. Rose, attorney, &c.
SAM'L D. KING, *Sur. Gen.*

El terreno qe. solicita el S'or Pearson B. Reading, en este pedimento es baldio y des ocupado y es el mas frontero de todo lo terrenos que se han pedido en el valle del Sacramento, como manifiesta el adjunto diseño y doy esta certificacion para los fines qe. comenzan.

J. A. SUTTER.

Nueva Helvetia, a 10 de Oct., de 1844.

(6 S. D. K.)

Sello primero.—Ocho pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departmento de los Californias, para los años de mil ochocientos, cuaranta y cuatro y mil ochocientos cuarenta y cinco.

[ADA MARIT'A DE MONT'Y.] MICHAELTORENA,
Pablo de la Guerra.

El C. Manuel Micheltorena, General de Brigada del Ejercito Mejicano Ayudante General de le Plana Mayor del mismo, Gobernador Commandante General é Inspector del Departmento de Californias:

Por cuanto D. Pearson B. Reading, Mejicano por naturalizacion ha petendido para su beneficio personal el terreno concido con el nombre de Buena Bentura en las margenes del rio Sacramento, dede el arroyo que llman Lodoso que este al norte hasta la isla que llman de Sanger en estencion de seis loctios de Grenada Mayor; practicadas periamento los diligencios y arniquaciones consenientes segun lo dispuesto por leyes y reglamentos de la materia resando de las facultades que me son conferidas a nombre de la nacion Mejicano, he venido en concederle el terrano mencionado sugetandose a la aprobacion de la Ex'ma asemblea Departmental y a los condiciones seguientes.

1*a*. No podra venderlo enagenarlo inpotecarlo, imponersense, vinculo, ni otro gravamen, ni podia donarlo.

2*a*. No impedirá el cultiro ó otros aprovechamientos que por othro terreno adquieran los indigenas ese nunbo.

3*a*. Podrá sercarlo sin perjudicar las trarisias caminos y servidumbres; lo disfrutará libremente destinandole al cultiro que mas le acomode pero dentra de un año fabricará casa y estará habitada.

4*a*. El terreno de que se hace donacion es de la estencion de que y a se ha hecho mencion el juez que diere la posesion lo hará medir conforme a ordehanza que dando el sobrante que resulto a la nacion para los usos convenientes.

5*a*. Si contrariniere a estos condiciones perdera su derecho al tereno y sera denunciado por otro.

En consecuencia mando que terriendose por validero el presente titulo se torne razon de el libro respectivo y se entreque al interesado

para su resguardo y demas fines. Dado en *en* Monterey a cuartro de Deciembré, de mil ochocientos cuarenta y cuatro.

MANUEL MICHELTORENA.
MANUEL JIMENO, *St'no.*

Queda tomada razon de este despacho el libro respectivo ap. 6.

JIMENO.

Filed in the archives by R. Rose, attorney, &c., Feb. 6th, 1852.

SAM'L D. KING, *Sur. Gen.*
(7. S. D. K.)

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the eight preceding and hereunto annexed pages of tracing paper, numbered from one to eight inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents deposited in this office on the sixth instant by Robert Rose, esq., attorney, &c., and now on file as forming a part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,)
[S. D. K.] at the city of San Francisco, this seventh day of February, 1852.

SAMUEL D. KING,
Sur. Gen., Cal.

Fourth seal.—Two reals.

Authorized provisionally by the maritime customs of the port of Monterey, in the Department of the Californias, for the years 1844, 1845.

(Signed) MICHAELTORANA,
Pablo de la Guerra.

[Maritime Custom-house of Monterey.] Most excellent Señor Governor.

Monterey, December 1st, 1844. Let the Senor secretary of State give information in regard to this petition.

MICHEL'A.

Pearson B. Reading, a native of the United States, and resident in this country since the year 1842, presents himself before your excellency with the greatest respect, and says: That finding himself possessed of some rural property, and desiring to devote himself to agriculture, prays your excellency to have the goodness to grant him the land known by the name of Buenaventura, situated on the bank of the river Sacramento, bounded on the north by vacant lands, on the east by the river Sacramento, and on south and west by vacant lands and mountains covered with trees, (sierras,) as is shown by the annexed plat, (desiño.)

Wherefore he prays you excellency to grant his petition, by which you will confer upon him great favor and kindness.

(Signed) PEARSON B. READING.

Monterey.

To his excellency Señor Governor.

The interested person in this petition is an honest man, and by the accompanying information it is shown that the land he asks is vacant, and can be granted, but the superior disposition of your excellency will determine what is best.

Monterey, December 1st, 1844.

(Signed) MAN'L JIMENO.

MONTEREY, *December 4th*, 1844.

Let the title be issued.

(Signed) MICHELTORENA.

It was entered folio 6, over.

Jurisdiction of the Rio Sacramento.

The land which Pearson B. Reading asks for in his petition is vacant and unoccupied, and is farthest on the frontier of all the lands which have been petitioned for in the valley of the Sacramento, as the annexed map shows; and I give this certificate for the purposes it may subserve.

New Helvetia, October 10th, 1844.

(Signed) J. A. SUTTER.

First seal.—Eight dollars.

[Maritime Custom-house of Monterey.] Authorized, provisionally, by the maritime customs of the port of Monterey, in the Department of the Californias, for the years 1844, 1845.

MICHELTORENA,
Pablo de Guerra.

Citizen Manuel Micheltorena, general of brigade of the Mexican army, adjutant general of the staff of the same, governor, commandant general, and inspector of the Department of the Californias:

Whereas Don Pearson B. Reading, a Mexican by naturalization, has made application for his personal benefit for the land known by the name of Buenaventura, on the margins of the river Sacramento from the creek called Lodo, (Lodoso, muddy,) which is on the north as far as the island called De Sangre, with six square leagues in extent; and the proper proceedings and investigations having been previously complied with according to the provisions of the laws and regulations concerning the matter by virtue of the authority vested in me; in the name of the Mexican nation, I have granted to him said land, subject to the approval of the most excellent departmental assembly, and to the following conditions:

1st. He shall not sell, alienate or hypothecate it, nor impose on it any tax, entail any other incumbrance, nor shall he donate it.

2. He shall not hinder the cultivation or other profits which the natives of that region may derive from said

3. He may enclose it without prejudice to the crossing roads and public uses, he may enjoy it freely, appropriating it to the cultivation which best suits him, but within a year he shall build a house and it shall be inhabited.

4. The land which has been granted is of the extent of which mention has already been made. The judge who shall give the possession shall cause it to be measured according to ordinance, and the overplus which may result shall remain to the nation for convenient uses.

5. If he contravene these conditions he shall lose his right to the land, and it shall be denounced by any other person.

Therefore I order that this title being held as valid, entry be made of it in the proper book, and be delivered to the interested party for his security and other purposes.

Given at Monterey, on the 4th December, 1844.

(Signed) MANUEL JIMENO, *Sec.*
(Signed) MICHELTORENA.

An entry has been made of this title in the proper book, on page 6.
(Signed) JIMENO.

I certify the foregoing to be a true and correct translation from the original filed in office.

San Francisco, April 21, 1852.
(Signed) GEO. FISHER, *Sec'y.*

No. 28—Pearson B. Reading.

Deposition of John Bidwell.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, SAN FRANCISCO, *March* 27, 1852.

On this day, before Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in the State of California, came John Bidwell, a witness produced on behalf of the claimant, in the case of the petition of Pearson B. Reading, being No. 28 on the docket of the commissioners; and after being duly sworn, testified as follows:

The law agent being notified and attending.

Questions propounded by claimant's counsel.

Question 1st. What is your name, age and residence?

Answer. My name is John Bidwell, my age is 32, my residence is Chico, Butte county, California.

Question 2d. How long have you resided in California, and in what part of it?

Answer. I have resided in California since November, 1841, in different parts of the State, but principally in Sacramento valley.

Question 3d. Are you acquainted with Pearson B. Reading, the claimant of the above mentioned ranch, and how long and where have you been acquainted with him?

Ans. I am; I have been acquainted with him since his arrival here in 1843.

Question 4th. Do you know or not whether a grant was made to said claimant by the Governor of California, and in what year was said grant made? What was the state of the country at and subsequent to the date of said grant, and where was the land granted situated?

Ans. I do know of such a grant having been made to him, which *which* was made in 1844; the land granted was situated near the head waters of the Sacramento valley on the west bank of the Sacramento river, about 160 miles above Sacramento city, being about 100 miles south of Oregon; the country, some three months after the grant, was in a state of revolution or resistance to Governor Micheltorena, which unsettled state of affairs continued more or less until the change of government or conquest by the United States; the granted land was in the midst of the wild Indians, and about 45 miles above and distant from any white settlement.

Question 5th. Do you know or not whether said grant was approved by the departmental assembly?

Answer. It was not, so far as I know.

Question 6th. Do you know or not whether any efforts were made by the claimant, or any person for him, to obtain said approval?

Ans. I was employed in the business of the claimant, Reading, charged to procure the approval of his grant by the departmental assembly; its session was holden in the fall of 1845, at Los Angelos; the distance of the place where I was, was about seven hundred miles, and the journey was considered unsafe, which prevented any attendance for the purpose of the said approval. Owing to the revolutionary disturbances, I did not believe that it was worth while to go any more on that business; I was preparing to go to Los Angelos when a proclamation was published commanding all foreigners to leave the country, by Pio Pecho, who succeeded Micheltorena; and it was also stated that General Castro was about to visit Sacramento to enforce that order, which, added to the other facts stated, caused me to decline any further attempt or effort in the matter.

Quest. 7th. At what time did you make the last attempt to procure the approval of the departmental assembly to said grant, and why did you not prosecute it?

Ans. The 1st of June, 1846, when the disturbances first commenced, when I was ready to set out, a party of General Castro's soldiers arrived from Sonoma, with about 150 horses, on their way to Santa Clara, the head-quarters of Gen'l Castro. They left Sacramento and encamped on the Cosmo river, about 15 miles south, where they were attacked by a party of Americans, as I was informed, by the order of

Col. Fremont. I know this attack was the first commencement of hostilities, which continued until the final conquest by the American armies of California; and during these difficulties it was not safe at any time to go to the seat of government. About a month and a half from this date the governor fled the country.

Question 8th. Are you acquainted with the handwriting of Micheltorena and Manuel Jimeno, and have you ever seen them write?

Answer. I am acquainted with them, and have seen them write their names frequently.

Question 9th. State whether the signatures on the expediente exhibited to you to-day by the surveyor general, in his office, are genuine, of which this expediente, now shown you, marked exhibit B, is a copy filed in the office of secretary of the land commissioners, on the 9th February, 1852, in the case of the petition of Pearson B. Reading, and docketed of the cases No. 28?

Ans. I think that the signatures on the original, which I have seen at the surveyor general's office this day, are genuine, and I know that I wrote the original petition myself, and think I saw the governor sign his name on the margin of the petition. I believe the signatures on the expediente whereon they appear are genuine.

(Signed) J. BIDWELL.

Sworn and subscribed before me, this 27th of March, 1852.

HARRY J. THORNTON, *Com'r.*

Cross interrogatories by the law agent of the United States.

Cross interrogatory 1st. Had you any authority from the claimant to obtain the approval of the departmental assembly prior to the year 1846; if not, what time in 1846 was the authority given you?

Ans. I had no authority actually given me until 1846, about the middle of May, as near as I can recollect; I had it in contemplation, in my answers to interrogatories on examination in chief, to go down to Los Angelos with the expediente of the claimant and others, but did not go for the reasons before stated. The actual power and authorities were not given me at that time, because I did not go; if I had gone I was to have received the authority of claimant.

Question 2d. Why was your journey to Los Angelos considered unsafe, as stated in your answer to interrogatory 6?

Ans. The unsafety consisted in the danger of passing through the San Joaquin valley, in 1845, on account of the hostility of the Indians, who had murdered a man in that year.

Question 3d. Was there any other route or mode of going safely to Los Angelos?

Answer. There was by water, but the opportunities were very seldom.

Question. By whom was the approval of the departmental assembly usually obtained? State your knowledge on that subject, and your means of knowledge?

Ans. So far as I know, it was obtained by the person to whom the grant was made, or by some person acting in his behalf; the way that I got that impression was, that when the Capitol was in Monterey, during the administration of Governor Micheltorena, I received the title to a grant of land myself; the assemblea departmental was not in session then, and being anxious to complete my title, I inquired of persons who were intelligent and familiar with the customs of the country, and was told I ought to leave my title with some person there to present it to the assemblea for approval when they might be in session; I have frequently seen the same kind of titles held by other persons not approved, and always heard them express their intention of taking their titles to the seat of government whenever the assembly might be in session, for the purpose of having them approved; I have known persons to send their titles to the assemblea, while it was in session, to obtain their approval.

Question 5th. Have you held any office or offices under the Mexican government; and if so, what offices prior to 1846?

Ans. I never held any office under the Mexican government; I was authorized by the Secretary of State in 1844 to make a map of the Sacramento valley, but not by any commission.

Further examination by claimant.

Question 1st. Have you known any Mexican born citizens to apply in person or by attorney to the departmental assembly for a confirmation of their grants to land?

Ans. I have no personal knowledge of any instance of that kind, but it was my impression that it was the practice of naturalized citizens to try and comply with the customs in that respect.

Question 2d. Who were the persons you have known to apply in person to the depart'l assem'y for confirmation of these grants of land?

Answer. I knew a gentleman by the name of Thomas, a naturalized citizen; I knew another by name of Wolfskill; I only knew this from information from the parties themselves; I know nothing personally of the mode of presenting or procuring the approval of the assembly, but I have understood it was in this manner: The governor presiding over the assembly would be presented with the titles by the parties interested, or their agents.

(Signed) J. BIDWELL.

Sworn to and subscribed before me, this 27th March, '52.

HARRY J. THORNTON, *Com'r.*

Deposition of Captain John A. Sutter.

BOARD OF LAND COMMISSIONERS,
May 11th, 1852.

The following deposition of Captain John A. Sutter, taken at the request of P. B. Reading, to be used in the case No. 28, now pending

before the board, wherein the said Reading is petitioner, praying for the confirmation of a grant of land known as the rancho Buenaventura.

The witness being duly sworn, makes answers as follows:

Interrogatory 1st. What office did you hold under the Mexican government during the years 1844, 1845 and 1846, in California.

Deponent answers. I was military commandant of the northern frontier, and charged with the civil jurisdiction in all that region of country.

Interrogatory 2d. Do you know the rancho Buenaventura, claimed by P. B. Reading in this case; and if yea, was it within your jurisdiction?

Deponent's answer. I do know this rancho very well, and it was within my jurisdiction.

Interrogatory 3d. State what you know in reference to its location.

Deponent's answer. The rancho aforesaid is situated on the right bank of the Sacramento river, something above one hundred and fifty miles above Sutter's fort.

Interrogatory 4th. During the time you were exercising the civil jurisdiction over that region of country, did the said P. B. Reading petition of you to be put in judicial possession of said rancho?

Deponent's answer. He did in the spring of the year 1845.

Interrogatory 5th. Did you give him judicial possession according to the prayer of his petition; if nay, state the reasons for your non-compliance with his request?

Deponent's answer. I could not, as I had just returned from a military campaign under General Micheltorena, then Governor of California; and immediately after my return from duty in the above campaign, I was obliged to go out again upon military service against the Indians; and immediately after our return from service against the Indians, Colonel Fremont came with his party, and there was a general revolution throughout the country. During the time of my absence on the first mentioned campaign, and also while absent against the Indians as above stated, the said P. B. Reading was in command of the fort by my appointment. The revolution which followed Colonel Fremont's coming, as above stated, resulted in the occupation of Upper California by the forces of the United States. For the above reasons I was not able to give to the said P. B. Reading judicial possession, according to the prayer of his petition for that purpose.

Interrogatory 6th. Do you or do you not recollect that Governor Micheltorena addressed the troops at the Mission Soledad while you were upon the campaign first mentioned by you above; if yea, state the substance of that speech, as near as you can recollect, in relation to grants of land?

(The above question objected to by Geo. W. Cooley, esq., law agent of the United States, on the ground that it is irrelevant, and generally as incompetent.)

Deponent's answer. I do remember that Governor Micheltorena did

make a public address to the troops then in service under him; the troops under my command were part of his forces at the Mission Soledad, in the spring or winter of 1845. The governor on that occasion declared to the troops that those persons then in public service who had before that time received grants of land, their grants should be confirmed, and those persons then in service who had not received grants of land, should have grants made to them upon the recommendation of myself, under whom those troops were serving. The governor professed that he then spoke in behalf of, and undertook to pledge the faith of the Mexican nation to the performance of the above engagement by him then made. At the time the above declaration was made by Governor Micheltorena, P. B. Reading was in the public service, as commandant of Sutter's fort as above stated; he was not present with the troops at the time of the above address of the governor.

I think, as near as I can recollect, that the address of the governor as above stated was the latter part of January or the fore part of February, A. D. 1845.

Interrogatories propounded to the witness, John A. Sutter, by Geo. W. Cooley, esq., law agent of the United States.

Interrogatory 1st, by law agent. Was there any other officer besides yourself within the jurisdiction referred to, during all or any part of the years 1844, 1845 and 1846, competent to give to Major Reading judicial possession of the rancho Buenaventura? If yea, who and where was his residence?

Deponent's answer. There was no other officer besides myself within that jurisdiction during those years, competent to entertain Major Reading's application to be put in judicial possession of the rancho aforesaid.

Interrogatory 2d, by law agent. Did Major Reading address to you a petition in writing, to be put in judicial possession of the said rancho?

Deponent's answer. He did not.

Interrogatory 3d, by law agent. In what month of the spring of 1845 did Major Reading make his said request to you for judicial possession of said rancho?

Deponent's answer. In the fore part of the month of April.

Interrogatory 4th, by law agent. Where did Major Reading then reside?

Deponent's answer. He resided, at the time he made the request, at Sutter's fort; he continued at the fort during the two campaigns as I have above stated.

Interrogatory 5th. At what precise time did you return from the first campaign under Micheltorena?

Deponent's answer. I reached the fort on my return from that campaign, on the 1st day of April, 1845.

Interrogatory 6th, by law agent. At what precise time did you start on the campaign against the Indians; was it in the month of April, 1845?

Deponent's answer. I started on the campaign as early as the middle of that same month of April; I am very confident that I started within the month of April, 1845, on the campaign against the Indians.

Interrogatory 7th, by the law agent. Was not the interval between your return from the first, and your starting on the second campaign, sufficiently long to have gone to the rancho to put the major in possession?

Deponent's answer. There might have been sufficient time to have done so, but we were all so much occupied in the preparation for the campaign against the Indians, that we had no opportunity or time to devote to that civil business.

Interrogatory 8th, by law agent. At what precise time did you start on the campaign under Micheltorena?

Deponent's answer. On the 1st day of January, A. D. 1845.

Interrogatory 9th, by law agent. At what precise time did you return from the Indian campaign?

Deponent's answer. We were out only a few days; as near as I can now recollect, we returned about the 17th or 18th of April, 1845; I cannot recollect with precision the day we started on that campaign, and consequently I cannot positively say on what day we returned.

Interrogatory 10th, by law agent. How long after your return from the Indian campaign did you exercise civil jurisdiction under Mexican authority?

Deponent's answer. From the time of my return from the Indian campaign to the time Colonel Fremont came, which I think was the latter part of April or the fore part of May, 1845.

Interrogatory 11th, by law agent. How long after your return from the Indian campaign was it before Major Reading left the fort and went to this rancho?

Deponent's answer. I cannot say exactly, but I recollect it was only a few days after my return that Major Reading left the fort. I shortly after heard of Major Reading's having joined Colonel Fremont's party.

Interrogatory 12th, by law agent. Had you not sufficient time after your return from the Indian campaign to have gone to the rancho and put Major Reading in possession, while you exercised judicial functions under the Mexican authorities?

Deponent's answer. I had not.

(Signed) JOHN A. SUTTER.

The foregoing and annexed deposition of John A. Sutter, was taken on the day and year first above written, at the motion of the said P. B. Reading, to be used in the case aforesaid. George W. Cooley, esq., law agent of the United States, was present, and did not object otherwise than as specially stated in the body of the deposition.

The foregoing deposition of the deponent subscribed and sworn to before me.

(Signed) JAMES WILSON,
Commissioner.

Deposition of David Spence.

OFFICE OF THE BOARD OF LAND COMMISSIONERS FOR CALIFORNIA, SAN FRANCISCO, *May 15th*, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came David Spence, a witness produced on behalf of P. B. Reading, whose petition is No. 28 on the docket of said commissioners, and after being duly sworn, testified as follows:

The law agent of the United States was notified and attended.

Question by claimant. What is your name, age, and place of residence?

Answer. My name is David Spence; age 53; residence California, for 28 years.

Question 1st. Are you familiarly acquainted with the grants of land in California, and with many persons who have heretofore secured grants of land?

Answer. I am.

Question 3d. Do you or not know of any instance in which a grant of land in California has ever been annulled or revoked by the former governments of the country, on the ground that the grantee had not performed the conditions annexed to the said grant?

Answer. To the best of my knowledge, I will state that I never did know of any instance of any American citizen, to whom a grant had been made, being molested, or his grant revoked or annulled on the ground stated.

Question 3d. Would you or not, from the circumstances of your long residence in California, and from the interest you have taken in this matter, have been most likely to have heard of any such course of proceeding? (The United States agent objects to the above questions and answers, on the ground that they are incompetent.

Answer. It would most likely have come within my observation if such a course of procedure had taken place.

Question 4th. How often did the departmental assembly sit, during the administration of Governor Micheltorena; and how long did it sit?

Answer. I was a member of the assembly during the whole time of his administration, and it did not sit but once during all that time, and then it was a special meeting, which lasted but a few days only.

Question 5th. Did you or did you not know of any grant ever having been finally rejected by the departmental assembly, when presented by the governor for its approval?

Answer. I do not recollect at this present moment of any such case of rejection.

Questions by United States law agent.

Question 1st. Do you profess to have been so conversant with the entire proceedings of the supreme government of Mexico, and the local

government of California, in regard to lands, that you would have known the fact of any grant or grants being annulled by either?

Answer. To that question I answer that I do not pretend to have been conversant with the entire proceedings of the general government of Mexico; but generally have had opportunities of hearing of any difficulties which might have happened there respecting land titles in California. I have been intimately acquainted with the proceedings of the local government of California, and as far as I can now recollect, have not heard of any grant or grants having been annulled by either.

Question 2d. What official stations have you held in the local government of California; and how long?

Answer. In 1835 I was alcalde in Monterey, and during the time of Governor Chico I was for a short time a member of the deputation, and under Governor Alvarado justice of the peace, and during the time of Micheltorena member of the departmental assembly, and when Governor Riley was in command he appointed me prefect of the district of Monterey. As well as I can now recollect, I was alcalde in 1835, one year; justice of the peace part of 1839 and 1840. I cannot recollect how long I was a member either of the deputation or of the departmental assembly, and think I was prefect only a few months.

Question. Have you ever known any grant of land made in California to be annulled either by the Spanish, Mexican, or local government of California, for any cause whatsoever?

Answer. I have not had an opportunity of knowing the proceedings of the Spanish government, as I was not in the country during the time of that government. I do not know of any, but have heard within a few days within the city of San Francisco, that a grant or grants were not approved by the departmental assembly, on having found out that the applicants were foreigners, and not citizens.

Question, 4. Have you ever known any case in which lands granted to a person upon conditions have been granted anew to another on account of non-performance of the condition by the first grantee?

Answer. I have heard an instance of land having been denounced by another person and asked for, but it was said that before he did so, or received the title, he had made some previous arrangements with the first owner in writing, and said document with the knowledge of the governor was attached to the expediente, when the title was given to the second person.

(Signed) D. SPENCE.

The U. S. law agent present.

Sworn to and subscribed before me, this 15th of May, 1852.

(Signed) HARRY J. THORNTON,
Commissioner.

Deposition of John A. Sutter.

OFFICE OF THE BOARD OF LAND COMMISSIONERS
FOR CALIFORNIA, SAN FRANCISCO, *May* 24, 1852.

On this day before me, Harry J. Thornton, one of the commission-

ers for ascertaining and settling private land claims in California, came John A. Sutter, a witness produced in behalf of the claimant, Pearson B. Reading, being No. 28 on the docket of the commissioners, and after being duly sworn, testified as follows.

The statement on this half sheet is agreed to be taken as a part of the deposition of the witness, in the case of Pearson B. Reading, in explanation of his answer to 5th direct interrogatory, and 12th cross interrogatory of said deposition.

(Signed) GEO. W. COOLEY,
U. S. law agent.

In the month of May, 1845, soon after the last excursion against the Indians, Antonio Maria Pico, accompanied José Nonega, arrived at my fort, and requested me to give assistance in crossing the San Joaquin, when I furnished him with an Indian named Eusebro, who had before been faithful for this purpose. They carried him with them to Monterey, and there made him presents of a Carabino and fine clothing, and sent him back to the tribe to which he belonged, which resided on and near the Moquelumne river, in the neighborhood of my fort, with instructions from Manuel Castro and others, who had opposed the administration of Governor Micheltorena, to incite said Indians to burn the wheat crop of the Americans, as soon as it was ripe enough to burn, for the purpose of expelling them from the country and depriving the immigrants from finding food on their arrival.

This Indian returned about the 1st of June, and endeavored to incite the other Indians of my fort to insurrection, who informed me of the plot above stated. During the month of May there were rumors and fears of hostilities from the Indians, who were excited against the Americans by the Californians, which kept me on the lookout during the whole of that month. Early in the month of June, William Eulnac arrived at my fort, stating that the Californians were raising troops to go against the Americans. He knew the fact from the attempt made to press his sons into the service. I remained in this suspense until Governor José Castro arrived, some time in the month of September, accompanied by Castillano, commissioner from Mexico, to purchase my fort, all the lands belonging to me south of the American river, for which they offered me one hundred thousand dollars, in drafts on the Mexican government.

This proposition I refused. The arrival of these gentlemen and their proposition convinced me that it was their intention to get me out of the country if possible, as it was currently rumored that they were determined to take me to Mexico if they could.

This, together with the excited state of the Indians, who sometime in November, as well as I can now recollect, made an attempt to steal my cavallard of horses from the corral adjoining the fort, rendered it necessary for me to be on my guard, and at my post, until the arrival of Colonel Frémont, sometime in the month of January, 1846; when a difficulty arose between Colonel Frémont and General Castro, which

caused open hostilities between the Americans and Californians, in which we all sided with Colonel Frémont. Which hostilities continued until the change of government in July, 1846.

(Signed) JOHN A. SUTTER.

Sworn to and subscribed before me, this 24th day of May, 1852.

(Signed) HARRY J. THORNTON.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, California, December 13th, 1852.

Hon. Board of Commissioners for settling land claims in California:

GENTLEMEN: Heretofore I approved in part of the survey made by R. W. Norris of the rancho "Buena Ventura," claimed by Pearson B. Reading, and furnished the party interested with a plot of the same for delivery to your board; but as the back lines were not run agreeably to the manner contemplated in the instructions, that part of the survey was objected to by this office. However, as Mr. Norris has since run those lines in the manner first directed, I have approved of the survey as it now appears, and herewith transmit a copy of the map, together with a copy of the field notes from which it has been delineated.

I have the honor to be, very respectfully, your ob't serv't,

(Signed) SAMUEL D. KING,
U. S. Surveyor Gen'l, Cal.

[For map see original, between pages 58 and 59.]

Field-notes of survey of claim of Pearson B. Reading, called Buena Ventura, lying on the Sacramento river, under order of the Board of Land Commissioners for California, and instructions of Samuel D. King, esq., U. S. Surveyor General, the former dated April 22d, 1852, and the latter dated April 24th, 1852, by Ralph W. Norris, deputy surveyor. The southeast and north boundaries were run in the month of May, 1852, with the following assistants:

William Sample, Charles Ruxton, F. D. Norris, W. N. Barker, chainmen;

Jno. H. Dickerson, William Magee, axemen.

Claim of Pearson B. Reading.

Traverse of Sacramento river.

Commenced survey Thursday, May 4, 1852. Make corner upon cottonwood tree 14 inches diameter, marked P B R.

No. 1, opposite the head of Bloody island, which bears N. 45, E. Width of river 4.50. Distance to head of island, 17.00. Thence by traverse of the Sacramento river.

1st. N. 19½ E. 1 00, to dry bed of cottonwood creek, course west.
7 89, to water.
12 29, cross creek to field.

	15 29,	end of first course on bank of river, which is 4 ch's wide, and opposite south end of Reading's island. Last 3 ch's 1st rate land.
2d. N. 27½ W.	15 00,	end of 2d course on field.
3d. N. 8½ W.	20 00,	end of 3d course on field.
4th. N. 11 E.	12 00,	to garden.
		Traverse of Sacramento river.
	17 50,	Cross the same and enter uncultivated land, about 4 ch's from house.
	28 00,	to end of 4th course. 1st rate.
5th. N. 18 E.	1 00,	opposite head of Reading's island.
	6 00,	opposite foot of Rancheria island, and ascend east point of bluff.
	12 00,	summit and descend.
	15 00,	to high bottom on bank.
	18 00,	to end of 5th course. 3d rate land.
6th. N. 17 W.	9 00,	ascend along foot slope of bluff.
	11 00,	to summit and level.
	18 00,	to end of 6th course. 3d rate land, clay and gravel.
7th. N. 21 W.	15 50,	end of course. 3d rate, as above.
8th. N. 30½ W.	12 50,	descend.
	14 00,	to creek, course N. W.
	14 50,	cross the same and pass along narrow strip of high bottom.
	20 00,	end of 8th course. Edge of this timber. Land 3d rate.
9th. N. 49 E.	1 50,	to creek, N. W.
	2 25,	cross the same.
	9 50,	to creek, course N. 50 W.
	10 75,	cross the same.
	27 00,	to dry creek, course N. 80 W.
	28 00,	cross the same.
	36 50,	to end of 9th course. 2d rate land. River on this course about 2 ch's wide.
10th. N. 10½	25 00,	to head of Rancheria island.
	16 25,	cross the same.
	21 00,	to end of 42d course, at post 2.50 from house on Shasta road. 2d rate land generally. From this post a line S. 42 E. 101.00 to end of 36th course includes an area of 91,107 acres.
43d. N. 26 E.	3 00,	to slough which has been the bed of the river, and through which Olney creek empties into river. Course N. W.
	4 50,	cross the same to bottom and growth.
	78 00,	to end of 43d course. 3d rate land—some timber.

44th. N. 2½ W. 11 00, to end of course. 3d rate—stones and sand.
45th. N. 35½ W. 10 00, to end of course. 3d rate, as before.
46th. N. 3 E. 24 00, to end of course on high, 3d rate—level land with a litle timber.
47th. N. 16 E. 59 50, to end of course. 3d rate, with some timber.
48th. N. 46¾ W. 49 00, to end of course. 3d rate land.
49th. N. 79 W. 19 00, to high level open plain, timber about 10 ch's west.
22 00, to end of course. 2d rate land.
50th. N. 53 W. 15 00, to end of course. 2d rate land.
51st. N. 28½ W. 11 00, to creek, course N. 40 W.
12 00, cross the same.
23 00, to end of 51st course. 2d rate land.
52d. N. 1 E. 29 00, to creek, course west.
32 50, cross the same.
35 00, to end of 52d course. 2d rate land.
53d. N. 14½ E. 5 00, to Gibson & Quick's ferry. 2d rate land and some timber.
23 00, end of course.
54th. N. 7 W. 52 00, ascend bluff.
54 50, to end of course. 2d rate land and some timber.
55th. N. 7½ E. to end of high, 2d rate land and some timber.
56th. N. 30½ E. 3.3 00, to dry bed of creek—course west.
5 00, cross the same.
15 00, to end of 56th course. 2d rate land.
57th. N. 76 E. 25 00, to end of course. 2d rate land.
58th. N. 68 E. 13 50, to end of course. Generally 3d rate land.
59th. N. 7½ W. 30 00, to end of course. 3d rate land.
60th. N. 62½ W. 10 00, to end of course on edge of high, 3d rate land.
61st. N. 2 W. continue along edge of high land and dry bed of river. The water at the present stage having receded several ch's east.
33 00, to end of 61st course. 3d rate land.
62d. N. 17½ W. 19 00, to end of course. 3d rate land.
63d. N. 82 W. 20 00, to end of course. 3d rate land.
64th. S. 60½ W. 9 00, to high level. 2d rate and open land.
10 00, to end of course. 1st 9 ch's 3d rate land.
65th. N. 85 W. 22 00, ascend point of bluff about feet above former land.
26 00, to summit about 60 feet above water.
35 00, to end of 65th course. 2d rate land.
66th. S. 81½ W. 21 00, to end of course. 2d rate and open land.
67th. N. 63 W. 3 00, descend to bottom.
17 50, to end of course in field. 2d rate land.
68th. N. 88½ W. 22 00, to Hunt's ferry, in field.
45 00, leave field.

50 00, the valley is 1 ch. wide.
68 00, to creek course.
69 00, cross the same.
91 00, to branch course.
91 50, cross the same.
140 00, cross point of bluff.
153 00, along foot of bluff.
160 00, to end of 68th course. Generally 2d rate land.
33 00, the land is level, 2d rate and sandy.

11th. N. 18½ W. 58 50, end of 11th course on dry bed of river.
12th. N. 31 W. 15 00, end of 12th course, 3d rate land, level, and occasional timber.
13th. N. 21½ W. 25 00, to water of river.
43 00, to end of 13th course, 3d rate land.
14th. N. 32 W. 47 00, end of course, 3d rate land—scattering timber.
15th. N. 61 W. 23 00, end of 15th course, last 3 ch's 2d rate land.
16th. N. 41 W. 50 00, end of course. There is some scattering 2d rate land, but it is generally 3d rate. Some little timber.
17th. N. 29½ W. 68 50, end of course, 3d rate, sandy land.
18th. N. 77½ W. 12 00, opposite the mouth of creek and military post of camp Reading.
27 00, end of 18th course, 3d rate land, sandy.
19th. S. 80¼ W. 24 00, leave sandy bottom and come upon edge of plain and some thin timber.
21st. N. 68¾ W. 20 00, end of course. The land on this course is generally 2d rate and sandy.
22d. N. 40½ W. 10 00, to stones and sand—old bed of river.
72 00, to higher 2d rate land.
77 00, to end of 22d course, scattering timber.
23d. S. 49½ W. 13 00, end of course, generally 2d rate.
24th. S. 29 W. 15 00, end of course, land 3d rate, covered with round stones.
25th. S. 56¾ W. 17 00, end of course. *Note by the surveyor general.*—This course is inserted there from the first set of field notes, the same being omitted through mistake.
26th. N. 81 W. 4 00, leave stones and sand and enter upon 2d rate ground.
25 00, end of 26th course.
27th. N. 72 W. 70 00, end of 27th course, generally 2d rate.
28th. S. 83¾ W. 54 50, end of course in front of Hughes' houses, and distant about 3 ch's from house and Shasta road; land generally 2d rate.
29th. N. 73¼ W. 14 00, end of course, land generally high and 2d rate, and ordinary timber.
30th. N. 53½ W. 14 00, end of course, land as above.

31st. N. 42¾ W. 10 30, to creek, course S. W.
11 70, cross the same.
68 00, to end of 31st course. Land generally 2d rate, sandy soil, some timber.
32d. N. 24½ W. 8 00, to bottom, and the land leans off more west.
37 00, to end of 32d course, on a of sand and stones; land on this course generally 3d rate—little timber.
33d. N. 2¼ E. 33 00, end of course, 3d rate, stones and sand.
34th. N. 37¾ 17 00, end of course, 3d rate.
35th. S. 82½ W. 33 00, to high land.
35 00, end of 35th course, land 3d rate.
36th. N. 83 W. 32 00, 2 ch's to road.
34 00, to low bottom.
35 00, end of 36th course, land generally 3d rate.
37th. N. 29 W. 1 00, to Clear creek, course west.
6 00, cross the same at mouth; but the creek is generally about 1 chain wide or less.
20 00, end of 37th course, 3d rate.
38th. N. 5 W. 11 50, end of course on stony bank.
39th. N. 4½ E. 27 00, end of course on stones and sand.
40th. S. 86¾ W. 20 50, to creek, course south.
21 00, cross the same.
28 00, to creek, course south.
29 00, cross the same.
31 50, to end of 40th course, 3d rate land.
41st. N. 68¾ W 151 00, to end of course, 3d rate land.
42d. N. 41 W 151 00, to end of course, 3d rate land, some timber.
42d. N. 41 W 151 50, to creek, course N. W.
57 50, cross the same and continue in sandy bottom subject to overflow.
"Back line."
70 00, to second rate bottom.
78 00, leave Creek bottom and enter high barren plain.
142 00, to end of 1st course, post marked P B R, No. 3. Land generally 3d rate. The plain is clay and gravel. See remarks of the surveyor general at end of field notes.
2d course.
N. 13¾ W 156 00, to end of 28th course in plain, post marked P B R, No. 4. Land level and 3d rate.
3d course.
N. 60 10 W 135 00, to end of 3d course. Post marked P B R, No. 5. Land as above.
4th course.
N. 77 W. 70 00, cross Shasta road, course north.
85 00, to thin timber.
110 00, to open, sandy valley.

130 00, to dry bed of creek, course at right angles with line.
132 50, cross the same.
140 00, to thin timber.
190 00, along point of bluff.
220 00, ground very hilly.
263 00, to end of 4th course, set post and take bearing; oak 2½ feet in diameter; bearing N. 71, E. 80 l'ks; marked P B R, No. 6. Land 3d rate.

5th course.

N. 47½ W. over broken and mountainous land.
53 00, to Mundy's Gulch.
65 00, to dry bed of creek, course north.
66 50, cross the same.
67 00, to dry bed of creek, course north.
68 50, cross the same and ascend, continue over very broken ground.
330 00, to bottom.
332 00, to creek, course north.
333 90, cross the same.
340 00, ascend, and over very rough ground to
380 00, end of 5th course, set post and take bearing; oak 1 foot diameter, bears S. 88, W. 35 l'ks; marked P B R, No. 7.

6th course.

N. 8¼ W. 50 00, descend to clear creek bottom.
51 50, to creek, course east.
61 41, cross the same to high sandy, covered with some oak and pine timber.
93 00, ascend steep mountain and continue over very rough ground.
160 00, to Olney creek, course east.
162 00, cross the same and continue in sandy bottom.
210 00, ascend mountain and continue over very rough ground.
252 00, to dry bed of creek, course east.
252 75, cross the same and continue in creek bottom.
257 00, leave creek bottom and ascend.
262 00, to dry bed of creek, course S. E.
262 25, cross the same and ascend, and continue over rough ground.
332 00, descend to dry bed of creek, course E.
332 40, cross the same and continue in valley.
341 00, leave valley and ascend, and continue over rough ground.
397 00, cross Shasta road, course E. and W. in valley.
412 00, ascend to level ground.

415 00, set temporary post.
From temporary post above named.
69th. N. 49½ W. 3 60, to Gold creek, course south.
4 10, cross the same.
9 13, set post on Salt creek.
Marked P, B, R, and take bearing.
A line 3 feet diameter bears S. 20½ W., 4.18, marked P, B, R, B, T, and No. 1., 3d rate land.
We are in the mines.
Having completed the traverse of the Sacramento river and made a plat of the same, I have proceeded, (in order that I might preserve an uniformity in the width of the survey,) to run imaginary lines from and to the most prominent points of the traverse of the river.
Sec. 1st, commencing at cottonwood tree, the place of beginning, I have drawn a line to the end of 8th course of traverse, forming section No. 1, and including 89.78 acres; course S. 6½ E., 142.00; the 2d sec. formed by a line drawn from the 9th to the 15th courses inclusive, and contains 742.36 acres; course S. 13¾ E., 223.00.—(See remarks of surveyor general at the end of the field notes.)
The 3d section is formed by a line drawn from stations 16 to 20 inclusive, and contains 456.89; course S. 60 E., 199.00. The 4th section by line from station 21 to 29 inclusive; course S. 77 E., 265.00, and includes 394.18 acres. The 5th section by line from station 30 to 36 inclusive; course S. 47½ E., 205.00 acres, containing 295.99 acres. (See remarks of surveyor general at the end of these field notes.)
The 6th sec. by line from stations 37 to 42 inclusive; course S. 41¾ E., containing 91.10 acres.
The 7th by line from stations 43 to 51 inclusive; course S. 8¼ E., 240.00, containing 893.61 acres.
The 8th sec. is formed by line from station 52 to 67 inclusive; course S. 17¼ E., 251.00, and contains 1,217.60. The total of the areas of the above 8 sections is 4,161.51, for which refer to accompanying tables.—(See

remarks of surveyor general at the end of these field notes.)

Having ascertained, by examination, that 130 chs. would be the correct width for the south boundary, I proceed to survey the same; commencing at cottonwood corner along cottonwood bottom:

S. 79 W. 45 00, to base of bluff, and continue ascending north slope.

50 00, over very rough ground.

130 00, to white oak tree corner, 2 feet diameter, marked P, B, R, No. 2. Land 3d rate; some timber.

From the above point I commenced the survey of the back line.—(See remarks of surveyor general at the end of these field notes.)

Back line P. B. Reading's claim, 1st course.

N. 6½ W. 10 00, Leave hills and enter plain; some timber.

56 00, to Cottonwood creek; course N. 80 E., I ran a line.

N. 80¼ E. 108 00, intersecting the line from station 52 to 67, of traverse of river at 118.30, from station 52. This line closes figure No. 9, which is formed of the lines drawn to different points of the traverse of the south boundary and the 6 back lines, forming an area of 19,186. 42 acres, for which refer to table No. 9. Finding that the termination of the 8th course at 415.00 made the survey wider than 130 chs., I continued the course N. 8¼ W. over level land.—(See remarks of surveyor general at the end of these field notes.)

N. 8¼ W. 437 00, to end of 6th course in depression; set post and take bearing at end of 6th course; oak 22 in dia.; bears S. 78 W. 83 lks., marked P. B. R, No. 8. The land in this course is 3d rate, with some timber, manzanta and chimasal.

From this point a line drawn south 88½ east, 1.11 chs., intersecting 8th line from station 52 to station 67, and with 22 chs. upon back line; course S. 8½ E., and with line N. 80¼ E. 108 chs., formed figure No. 10, with an area of 116.00 acres, for which refer to table No. 10.

The areas of the figures from No. 1 to No. 10 inclusive, form a total of 23,463.93 acres, leaving yet to be found 2,577.73 acres.

I now commence the traverse of Salt creek, which is the north boundary of this claim.

Traverse of Salt creek.

1st. S. 70¾ W.	4 00,	cross Oregon trail; course N. 48 W.
	40 00,	to end of 1st course.
2d. S. 66½ W.	15 00,	" 2d "
3d. S. 34¾ W.	5 00,	" 3d "
4th. N. 83 W.	12 00,	" 4th "
5th. S. 60¾ W.	7 00,	" 5th "
6th. S. 21½ W.	16 00,	cross Shasta road.
	16 50,	to the end of 6th course.
7th. S. 86½ W.	3 00,	cross road.
	4 00,	end of 7th course.
8th. S. 3 W.	1 00,	cross road, which crosses Salt creek at this point.
	6 00,	to end of course and of traverse of Salt creek; take one bearing; white oak, 2½ feet dia., bears S. 56 E., 2.52.

Having ascertained that a line from the end of the course 6th of back line should terminate at last named point on Salt creek, I have accordingly closed the survey upon that point.

7th course.

N. 64 W.	2 50,	ascend to level.
	20 00,	broken ground.
	80 00,	cross Shasta road; course N., and continue over very broken ground.
	199 00,	intersect traverse of Salt creek at 600, upon 8th course; bearing taken above.

The above line closed figure No. 11, which contains 2,589.32 acres, forming a total of 26,053.25 acres, for which refer to map, also to table No. 11.

Note by surveyor general.—The figure 11, above alluded to, after an examination of the work is found to contain 2,563 $\frac{56}{100}$ acres, and the total number of acres mentioned 26,095 $\frac{00}{100}$, or six square leagues and fifty-four $\frac{4}{100}$ acres.

I, Ralph W. Norris, deputy surveyor, do solemnly swear, that in pursuance of instructions from Samuel D. King, surveyor general of the U. S. for the State of California, bearing date April 24, 1852, I have regularly surveyed the claim of Pearson B. Reading, called "Buena Ventura," lying upon the Sacramento river, and that the above are the true and original field notes thereof.

(Signed) RALPH W. NORRIS,
Deputy surveyor.

Sworn to and subscribed before me this 7th day of October, A. D. 1852.

JAMES E. WAINWRIGHT,
County clerk,
By R. C. HOPKINS, *Deputy*.

Remarks by the U. S. surveyor general.

Upon examination of the work there is found to be a small difference in the calculated back lines and respective areas mentioned in the preceding field notes.

See sections mentioned in the preceding notes.

The corrected forms of those lines or courses and the areas is as follows:

Section 1, course S. 6.00 45 E. - - -	141.79 chains
Area - - - - - -	90.24 acres
Section 2, course S. 13° 51.30′ E. - -	222.28 chains
Area - - - - - -	723.74 acres
Section 3, course S. 58° 59′ E. - - -	194.00 chains
Area - - - - - -	458.93 acres
Section 4, course S. 79° 11′ E. - - -	265.70 chains
Area - - - - - -	397.67 acres
Section 5, course S. 47° 36′ E. - - -	204.60 chains
Area - - - - - -	295.96 acres
Section 6, course S. 42° E. - - -	101.01 chains
Area - - - - - -	91.15 acres
Section 7, course S. 8° 19′ 15″ E. - -	239.96 chains
Area - - - - - -	893.41 acres
Section 8, course S. 17° 5′ E. - - -	250.54 chains
Area - - - - - -	1,213.98 acres

The sum of these eight sections is 4,165.08 acres, and not 4,161.51, as mentioned in the notes. Section or figure 9, mentioned in these notes, comprises 19,250 $\frac{76}{100}$ acres instead of 19,186 $\frac{42}{100}$ acres.

Section or figure 10, mentioned in the preceding notes, comprises 116 $\frac{85}{100}$ acres instead of 116 acres.

Section or figure 11, mentioned, comprises 2,563 $\frac{51}{100}$ acres, forming a total of 26,095.70 acres, or 6 square leagues and 54 $\frac{4}{100}$ acres.

U. S. SURVEYOR GENERAL'S OFFICE,
SAN FRANCISCO, *December 10th*, 1852.

The foregoing field notes for the initiatory survey of the rancho "Buena Ventura," P. B. Reading claimant, having been duly examined, and being in conformity to the instructions of this office of the 24th of April last, based upon the order of the board of land commissioners, dated April 22d, 1852, are hereby approved.

(Signed) SAM'L D. KING,
Surveyor General.

I certify that the foregoing is a true and correct copy of the field

notes of the initiatory survey of the rancho "Buena Ventura" claimed by Pearson B. Reading.

SAM'L D. KING, *Surveyor General.*

San Francisco, December 13, 1852.

I, George Fisher, secretary of the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing 30 pages, numbered from 1 to 30, both inclusive, to contain a true, correct, and full transcript from the journal of proceedings of the said board, in case No. 28, Pearson B. Reading, claimant, against the United States, for the place named "Buena Ventura." I further certify the foregoing 52 pages, numbered from 31 to 89, both inclusive, to contain a true, correct, and full copy of the original depositions of witnesses and other documentary evidence on file in this office in the same case.

In testimony whereof I have hereunto set my hand and affixed my private seal, not having a seal of office, at San Francisco, California, this twelfth day of August, 1853, and of the independence of the United States of America the seventy-seventh.

(Signed) GEO. FISHER. [L. S.]

The foregoing transcript, as certified by George Fisher, was endorsed in the clerk's office of the U. S. district court, for the northern district of California:

"Filed August 12, 1853.

"JOHN A. MONROE, *Clerk.*"

ATTORNEY GENERAL'S OFFICE,
WASHINGTON, D. C., *July* 11, 1853.

PEARSON B. READING, claimant,
vs.
THE UNITED STATES.

You will please take notice that the appeal, in the above case, from the decision of the commissioners to ascertain and settle the private land claims in the State of California, to the district court of the United States, for the northern district of California, will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney General U. S.

To the clerk of the district court of the United States for the northern district of California, San Francisco.

Endorsed: "Filed August 17, 1853.

"JNO. A. MONROE, *Clerk.*"

United States district court, northern district of California.

THE UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

In the matter of the claim of Pearson B. Reading for the rancho of "Buenaventura."

Now comes the said Pearson B. Reading, by his attorney and counsel, and by leave of this court files this his motion, and asks the said court to dismiss this case from appeal, for the following reasons and grounds of objection to said appeal being prosecuted by this court, to wit:

I. That said appeal has not been brought or perfected according to law in this:

a. That the act of Congress, entitled "An act to ascertain and settle private land claims in California, approved March 3d, 1851, provides a time and mode in which the decision of the United States land commissioners in this case may be reviewed, and those terms and conditions were accepted by the claimant, Reading, and that the decision of said United States land commissioners should be final unless appealed under the provisions of said act of March 3, '51.

b. That in particulars not altered, or proposed to be altered, by any subsequent act of Congress, said appeal has not been brought or perfected according to, and the proceedings hereon are not in conformity to the provisions of, said act of March 3d, 1851, or with law.

c. That this appeal is in derogation of the rights of claimant, Reading, secured to him by the treaty between the United States and Mexico, commonly called the treaty of Guadalupe Hidalgo, and proceedings thereunder.

d. That it is in derogation of the rights of the claimant, Reading, under a compact with the United States existing by virtue of said treaty, the said act of March 3d, 1851, enacted to carry into effect and execute the said treaty, and the claimant Reading's acceptance of said act of March 3d, 1851.

II. That this court has no jurisdiction of said appeal because—

a. In order to any jurisdiction over, or cognizance of, the proceedings or decisions of said commissioners, it is required that a petition be presented to this court, and a copy thereof served on the adverse party praying said court to review the decision of said commissioners, and the same has not been done, and the time within which it might be done has elapsed.

b. That there are no provisions, lawfully established, by which the decision of the said commissioners in this case can be brought within the jurisdiction of this court, to prevent the ripening of the same into a decree of final confirmation, other than those set forth in the act of March 3, 1851, and said provisions have not been complied with.

c. That the appeal has not been preceded, brought, or perfected by due process.

d. That there are no provisions of law by which an appeal will lie from the decision of said commissioners herein.

e. That this court has no appellate jurisdiction over the subject matter of this appeal, nor are the parties properly before it.

f. That the said commission is not a court established under the 1st and 2d sections of 3d article of the Constitution of the United States, the tenure of office of said commissioners not being that of good behaviour, but at the will of the President of the United States, and their jurisdiction special; and that claimant, Reading, has not consented to have his rights tried or heard other than by due course of law, except by his acceptance of the terms of said act of March 3, 1851, or his consent, and he protests against imposition of new terms, or that this court take jurisdiction.

g. That said act of March 3, 1851, is not a law enacted by Congress in legislative or law-making capacity, but in the nature of a contract, and governs both the United States and claimants as contracts between individuals, and cannot be changed without mutual consent.

h. The said commission is not a part of the United States judiciary, established by Congress in its law-making or governmental capacity, but as a special tribunal, established in pursuance of administrative or fiduciary powers as custodian of United States lands.

i. This court has no appellate jurisdiction under the Constitution and laws of the United States.

Whereupon said appellee, Pearson B. Reading, by his attorney and counsel, moves this court to dismiss this appeal, and to grant an order of judgment and decree of final confirmation of said claim, and such other or further order, judgment, and decree as shall be according to law, and the nature and equity of this case may require.

E. O. CROSBY,
Attorney and counsel for Pearson B. Reading, appellee.

Endorsed: "Filed October 3, 1853.
"JOHN A. MONROE, *Clerk*."

At a special term of the district court of the United States of America, for the northern dstrict of California, held at the court-house in the city of San Francisco, on Friday, the 21st day of October, in the year of our Lord one thousand eight hundred and fifty-three.

Present, the honorable Ogden Hoffman, Jr., district judge.

THE UNITED STATES, appellants,
vs.
PEARSON B. READING, appellee.

A motion to dismiss the appeal filed in this cause having been made by the counsel for appellee, and said motion having been argued by the said counsel for appellee, and the U. S. district attorney, and due deliberation being had in the premises, it is now ordered, adjudged, and decreed by the court, that the said motion be denied.

Endorsed: "Filed October 22nd, 1853.
JOHN A. MONROE, *Clerk*."

UNITED STATES DISTRICT COURT,
Northern district of California.

UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

CITY AND COUNTY OF SAN FRANCISCO, *ss.*

Pearson B. Reading, being duly sworn, says, that since the commencement of the trial of this case, and the commencement of the argument, he has discovered evidence, material to him in the trial of the cause, which he was not aware of previously, and could not have obtained by the exercise of ordinary diligence. Affiant further states, that he was duly naturalized a Mexican citizen, in the Republic of Mexico, according to the laws thereof, previous to the grant to him in the above stated case; that letters of citizenship were regularly issued to him by the proper Mexican authorities; that said letters were burned, in the city of San Francisco, among other papers in the year A. D. 1851; that affiant has no copy of the same, and does not know that any exists; that John A. Sutter, as affiant, is informed, and believes, saw, and read, said letters of citizenship previous to their destruction; that affiant was only informed of that fact on yesterday for the first time. Said Sutter resides over a hundred and forty miles from this city, and he asks a reasonable time to procure the testimony of said Sutter.

Affiant further states, that since the argument has been commenced in this case, he has discovered important testimony by which he can prove, that owing to the revolutions in the country, and the conflict and war between the Republic of the United States and Mexico, it would have been unsafe and dangerous for him to have occupied, in person, the land in this case claimed.

Affiant further states, that he is able to prove, by the deputy United States surveyor, who executed the survey under the order of the Board of the United States Land Commissioners, that the lands to the west of said survey could not have been embraced within the same, without including mountains, hills, and barren lands, unfit for cultivation and grazing.

Affiant is not aware of any public record of his letters of naturalization, and he has since examined the archives, now in the custody of the United States surveyor general, and no record of said letters of naturalization can be found in said archives.

(Signed) P. B. READING.

Sworn to October 21st, 1853.

HENRY B. JANES,
United States commissioner.

Endorsed: "Filed October 25th, 1853.
JOHN A. MONROE, *Clerk.*"

[REC. CXXI, D. T., 1853.]—6

[For map see original, between pages 83 and 84.]

U. S. COMM'RS OFFICE.

The UNITED STATES
vs.
PEARSON B. READING.

Testimony by consent, subject only to legal exceptions; notices, &c., waived.

R. W. Norris, being duly sworn, says: I executed a survey of the land in controversy in this suit, under the order of U. S. Board of Land Commissioners, and under instructions from the surveyor general as his deputy. The map marked "Exhibit A, October 21, 1853," is a map of the survey made by me, and a copy of the map in the surveyor general's office of the same tract. The "11," marked "house, &c.," is the location of the residence of Pearson B. Reading, a party litigant in this suit.

The house is a good adobe house, 80 feet in length, one story high, four rooms, with back buildings, granary and houses for laborers, &c.

The field adjacent to the house is fenced and ditched, containing, as I estimate, upwards of 100 acres.

To the westward, adjacent to this tract, the face of the country is entirely barren and unfit for cultivation or grazing, with the exception of a few acres, just over the line of the survey on the map, in rear of the residence of Mr. Reading; the general face of the country westward is mountainous, rocky and barren.

(Signed) RALPH W. NORRIS.

UNITED STATES OF AMERICA,
Northern district of California, ss.

I, Henry B. Janes, a commissioner duly appointed by the district court of the United States, for the northern district of California, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, the witness was material and necessary in the cause in the caption of the said deposition named, and that the same was taken by consent.

I further certify, that on the 22d day of October, in the year of our Lord one thousand eight hundred and fifty-three, I was attended by the counsel for the respective parties to this action and by the witness, who of sound mind and lawful age; and the witness being by me

first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth; and the deposition was by me reduced to writing, in the presence of the witness, and from his statements, and after carefully reading the same to the witness, who subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of returning the same with my own hand to the court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal, this 22d day of October, in the year of our Lord one thousand eight [L. S.] hundred and fifty-three, and of the independence of the United States the seventy-eighth.

HENRY B. JANES,

United States commissioner, duly appointed by the district court of the United States for the northern district of California.

U. S. DISTRICT COURT.

The UNITED STATES vs. PEARSON B. READING. } Land claim No. 3.

Testimony before a commissioner, on consent of parties.

J. J. Warner, being duly sworn, says: I have examined documents purporting to be the "expediente" and title papers of rancho Buena Ventura to Pearson B. Reading, in the archives in the custody of the surveyor general of the United States for California. There is a petition of Pearson B. Reading, which is decreed by Manuel Michaelterano on the 1st of December, 1844; report of Manuel Jimeno, December 1, 1844; order to make title by Michelterano, December 4, 1844; title of same date signed by Manuel Michelterano and Manuel Jimeno as secretary of State; certificate of record signed by Jimeno; all of which signatures are the true and genuine signatures of the persons respectively whose names are affixed to said documents, being well acquainted with their signatures, having repeatedly seen them write. I know that they were at the times specified filling the offices in said documents expressed. I reside in San Diego county, California; I have been a permanent resident of California since the year 1834—first came to California in 1831.

Cross examined, witness says: When I spoke of title above, I mean a paper purporting to be a title.

(Signed) J. J. WARNER.

UNITED STATES OF AMERICA,
Northern district of California, ss.

I, Henry B. Janes, a commissioner duly appointed by the district court of the United States for the northern district of California, under

and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,' " passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, the witness was material and necessary in the cause in the caption of the said deposition named, and that the same was taken by consent of S. W. Inge, esq., in behalf of the United States, and —— Crosby, esq., counsel for P. B. Reading.

I further certify, that on the 21st day of October, in the year of our Lord one thousand eight hundred and fifty-three, I was attended by S. W. Inge, esq., by proxy, and —— Crosby, esq., and by the witness, who of sound mind and lawful age, and the witness being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing, in the presence of the witness, and from his statements and after carefully reading the same to the witness, who subscribed the same in my presence. I have retained the said deposition in my possession, for the purpose of returning the same with my own hand to the court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 21st day of October, in the year of our Lord one thousand [L. S.] eight hundred and fifty-three, and of the independence of the United States the seventy-eighth.

HENRY B. JANES,

United States commissioner, duly appointed by the district court of the United States, for the northern district of California.

COMMISSIONER'S COURT.

The UNITED STATES vs. PEARSON B. READING. } Land claim No. 3.

Testimony by consent.

Joseph P. Thompson, being duly sworn, deposes and says: I have examined the papers now in the office and under the custody of the surveyor general of the United States; said papers purporting to be a petition of Pearson B. Reading for the rancho of Buena Ventura; Marginal Decree of Michelterano, dated Dec. 1, 1844; report of Secretary Jimeno of same date; decree of Michaelterano, governor, title to be issued, dated Dec. 4th, 1844; report or certificate of Capt. John

A. Sutter, dated Oct. 10th, 1844, and a title by Michelterano, dated Dec. 4, 1844, signed by Jimeno, secretary of State; also Jimeno's certificate of record of grant; all of which signatures of Michelterano, Jimeno and John A. Sutter are, to the best of my knowledge and belief, genuine. I am acquainted with the handwriting of all the parties. I have been in California since the close of 1841, and have resided mostly in San Francisco and Monterey.

(Signed) JOSEPH P. THOMPSON.

We hereby consent that the foregoing deposition be read on the trial of the above cause, subject to all legal exceptions.

(Signed) S. W. INGE.

Endorsed: "Filed Oct. 22, 1853.

JNO. A. MONROE, *Cl'k.*"

UNITED STATES OF AMERICA,
Northern district of California, ss.

I, John A. Monroe, a commissioner duly appointed by the district court of the United States, for the northern district of California, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, the witness was material and necessary in the cause in the caption of the said deposition named, and that the same was taken by consent of parties.

I further certify, that on the 22d day of October, in the year of our Lord one thousand eight hundred and fifty-three, I was attended by the counsel of the respective parties to this action, and by the witness who was of sound mind and lawful age, and the witness being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing, in the presence of the witness and from his statement, and after carefully reading the same to the witness who subscribed the same in my presence. I have retained the said deposition in my possession, for the purpose of returning the same with my own hand to the court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 22d day of October, in the year of our Lord one thousand [L. S.] eight hundred and fifty-three, and of the independence of the United States the seventy-eighth.

JOHN A. MONROE,

United States commissioner, duly appointed by the district court of the United States, for the northern district of California.

U. S. COMMISSIONER'S OFFICE.

Testimony de bene esse by consent.

The UNITED STATES vs. PEARSON B. READING. } Land claim No. 3.

Captain John A. Sutter, being duly sworn and examined, says in answer to

Question 1st. State when you first became acquainted with defendant?

Answer. In the year 1843.

Question 2d. State anything you know in relation to his letters of naturalization or citizenship as a citizen of the Republic of Mexico?

Answer. I know that Major Reading got his naturalization papers from General Micheltoreno, then the Governor of California.

Question 3d. Did you see the letters spoken of?

Answer. I saw them when they were handed to Major Reading at Sutter's fort, Sacramento county; and if Major Reading had not obtained such papers, he could not have obtained a title for his land.

Question 4th. State what acts, if any, while commander of the northern frontier, you required Major Reading to perform as a Mexican citizen.

Answer. I requested Major Reading to do military duty for subduing the hostile Indians, and during the revolution against General Micheltereno; I was compelled to leave the fort and join General Micheltereno with my forces; I then appointed Major Reading commander of the fort with a small garrison, and gave him military and civil power, because I had great confidence in him; during this time he performed his duties to my entire satisfaction. After this there were continual skirmishes and outbreaks with the Indians, and in the year 1846 the Mokelumne Indians were encouraged by members of the California government to make attacks upon us, burn our grain fields, &c. We then went out against them; Major Reading accompanied me, and with much difficulty we reached their camp; and from sunrise until afternoon we were fighting until our ammunition was exhausted; we had many of our party wounded; Major Reading narrowly escaped with his life in crossing the river; a few days after this Major Reading joined Colonel Fremont, and remained with him until the end of the war, the conquest of the country in 1847. The service under Colonel Fremont was that of the United States.

Question 5th. Will you state whether you had the authority, by virtue of your powers as a Mexican officer, to require these services of Major Reading, and did you so require them?

Answer. I had the power, because Major Reading was a Mexican citizen, and I ordered him to perform them.

Question 6th. Do you think of any other service you required of Major Reading?

Answer. I dispatched Major Reading with a party of 25 men to the north, to punish the hostile Indians, who had done a great deal of damage, and he succeeded in quieting them; this was in the year 1845.

There were many other services required of him as a Mexican citizen which he performed.

Question. State whether in your opinion, during the revolution and hostilities of which you have spoken in 1845 and 1846, it would have been safe for Major Reading to have resided personally on his rancho of Buena Ventura.

Answer. Major Reading had hardly time to do so, as he was nearly all the time required to do service by me. The worst Indians in California at that time were then near his rancho; after the war Major R. immediately went up and settled there.

Question. Will you state whether or not these hostilities and dangers were *incurred* by the war between the United States and Mexico?

Answer. They were increased, because all the men were requested to take part in the war.

Cross examined.

Question. How did you know that the letters of naturalization, of which you have spoken, were genuine letters?

Answer. Because Major Bidwell was sent express to Monterey to get them for Major Reading and others who desired to become citizens, and on his return he delivered those letters of naturalization in my presence.

Question. Did you read those letters?

Answer. I did not read them word for word, but I examined them and found they were all correct and genuine; this was in 1844.

(Signed) F. A. SUTTER.

UNITED STATES OF AMERICA,
Northern district of California, ss.

I, Henry B. Janes, a commissioner duly appointed by the district court of the United States, for the northern district of California, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed March 1st, 1817,

and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, the witness was material and necessary in the cause in the caption of the said deposition named, and the same was taken by consent of counsel for the parties in the suit therein mentioned.

I further certify, that on the 25th day of October, in the year of our Lord one thousand eight hundred and fifty-three, I was attended by Volney Howard and Crosby, esq'rs., counsel for plaintiff, and S. W. Inge, esq., counsel for defendants, and by the witness who was of sound mind and lawful age, and the witness being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing in the presence of the witness and from his statements, and after carefully reading the same to the witness who subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of returning the same with my own hand to the court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 25th day of October, in the year of our Lord one thousand eight hun-
[L. S.] dred and fifty-three, and of the independence of the United States the seventy-eighth.

HENRY B. JANES,
United States commissioner, duly appointed by the district court of the United States, for the northern district of California.

UNITED STATES DISTRICT COURT,
Northern district of California.

THE UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

Motion on the part of the appellee to be allowed to take further testimony in this case, for reasons set forth in the deposition of the appellee herewith filed, which testimony consists of the depositions of John A. Sutter, J. J. Warner, R. W. Norris, also herewith filed; as also the deposition of Jos. P. Thompson.

CROSBY & HOWARD,
Of counsel for appellee.

THE UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

In this case two objections are urged by the district attorney to the confirmation of the claim:

1. That the claimant had no capacity to take, being a foreigner.
2. That the conditions of the grant have not been substantially complied with.

As to the first objection, it is to be observed first, that the grant itself recited that the claimant was a naturalized citizen; and 2d, it is shown that letters of naturalization were in point of fact issued to him. No fraud in obtaining them is pretended to have been committed; and whether or not he was at the time strictly entitled to them by Mexican law, it seems to me that that question having been passed upon by competent authority, and the claimant having been actually naturalized, it cannot now be objected that he was not at the time of receiving the grant a Mexican citizen.

It is proper to observe, that the proof of Major Reading's having been actually naturalized was only furnished after the district attorney had taken his objections.

With respect to the performance of the conditions, the proof shows that the grant was dated in December, 1844; that in August, 1845, the claimant went on the land, took possession, selected a site for his house, left his servants to build a house; the house was built within a year, and was inhabited until the person in charge was driven out by hostile Indians, and the house burned. A crop of wheat was raised on the land in 1845, and also in 1846; the latter was burned with the house.

During the year 1845, Major Reading appears to have been called into service by Gen'l Sutter, in consequence of the political disturbances which then agitated the country. In 1846 he joined the Americans under Fremont, and seems to have been in active service the greater part of the year.

In 1847 he returned to his rancho, and has ever since resided on it, and cultivated it.

Under these circumstances we look in vain for any evidence of a wilful abandonment of his grant, or even neglect to perform its substantial conditions.

The object of the Mexican government undoubtedly was to secure the cultivation and settlement of their vacant lands. That object was certainly attained in this case. The personal residence of the claimant on the land may also have been necessary; but for his omission in this respect, the claimant shows excuses which I think ought to be received. In the year 1845, and part of 1846, he was unexpectedly called to perform duties which he had no right to decline; and the reasons of his neglect in 1846 are certainly such as should receive the favorable consideration of this government. Had no effort been made by the claimant to comply with the conditions of his grant, and had his only excuse been the existence of obstacles which equally existed and were well known when he undertook to comply with the conditions, the case of the United States *vs.* Filemont, and other cases decided by the Supreme Court, would leave me no alternative but to refuse to confirm this claim. But anxious as this court is to lay hold

and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, the witness was material and necessary in the cause in the caption of the said deposition named, and the same was taken by consent of counsel for the parties in the suit therein mentioned.

I further certify, that on the 25th day of October, in the year of our Lord one thousand eight hundred and fifty-three, I was attended by Volney Howard and Crosby, esq'rs., counsel for plaintiff, and S. W. Inge, esq., counsel for defendants, and by the witness who was of sound mind and lawful age, and the witness being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing in the presence of the witness and from his statements, and after carefully reading the same to the witness who subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of returning the same with my own hand to the court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 25th day of October, in the year of our Lord one thousand eight hun-
[L. S.] dred and fifty-three, and of the independence of the United States the seventy-eighth.

HENRY B. JANES,
United States commissioner, duly appointed by the district court of the United States, for the northern district of California.

UNITED STATES DISTRICT COURT,
Northern district of California.

THE UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

Motion on the part of the appellee to be allowed to take further testimony in this case, for reasons set forth in the deposition of the appellee herewith filed, which testimony consists of the depositions of John A. Sutter, J. J. Warner, R. W. Norris, also herewith filed; as also the deposition of Jos. P. Thompson.

CROSBY & HOWARD,
Of counsel for appellee.

THE UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

In this case two objections are urged by the district attorney to the confirmation of the claim:

1. That the claimant had no capacity to take, being a foreigner.
2. That the conditions of the grant have not been substantially complied with.

As to the first objection, it is to be observed first, that the grant itself recited that the claimant was a naturalized citizen; and 2d, it is shown that letters of naturalization were in point of fact issued to him. No fraud in obtaining them is pretended to have been committed; and whether or not he was at the time strictly entitled to them by Mexican law, it seems to me that that question having been passed upon by competent authority, and the claimant having been actually naturalized, it cannot now be objected that he was not at the time of receiving the grant a Mexican citizen.

It is proper to observe, that the proof of Major Reading's having been actually naturalized was only furnished after the district attorney had taken his objections.

With respect to the performance of the conditions, the proof shows that the grant was dated in December, 1844; that in August, 1845, the claimant went on the land, took possession, selected a site for his house, left his servants to build a house; the house was built within a year, and was inhabited until the person in charge was driven out by hostile Indians, and the house burned. A crop of wheat was raised on the land in 1845, and also in 1846; the latter was burned with the house.

During the year 1845, Major Reading appears to have been called into service by Gen'l Sutter, in consequence of the political disturbances which then agitated the country. In 1846 he joined the Americans under Fremont, and seems to have been in active service the greater part of the year.

In 1847 he returned to his rancho, and has ever since resided on it, and cultivated it.

Under these circumstances we look in vain for any evidence of a wilful abandonment of his grant, or even neglect to perform its substantial conditions.

The object of the Mexican government undoubtedly was to secure the cultivation and settlement of their vacant lands. That object was certainly attained in this case. The personal residence of the claimant on the land may also have been necessary; but for his omission in this respect, the claimant shows excuses which I think ought to be received. In the year 1845, and part of 1846, he was unexpectedly called to perform duties which he had no right to decline; and the reasons of his neglect in 1846 are certainly such as should receive the favorable consideration of this government. Had no effort been made by the claimant to comply with the conditions of his grant, and had his only excuse been the existence of obstacles which equally existed and were well known when he undertook to comply with the conditions, the case of the United States *vs.* Filemont, and other cases decided by the Supreme Court, would leave me no alternative but to refuse to confirm this claim. But anxious as this court is to lay hold

of any equities which the claimants can urge in these cases, it has seemed to me that this claim should be governed rather by the case of the U. S. *vs.* Sibbald, 10th Peters, than by those of the U. S. *vs.* De Filemont and the U. S. *vs.* Boisdore, in XI. and XIII. Howard.

I think, therefore, that the performance of the conditions in this case, within the time limited, and the excuses given by the claimant for the want of a full performance, are sufficient under all the circumstances to raise an equity in his favor which this government is not at liberty to disregard.

At a special term of the district court of the United States of America, for the northern district of California, held at the court-house in the city of San Francisco, on Monday, the 31st day of October, in the year of our Lord one thousand eight hundred and fifty-three.

Present, the honorable Ogden Hoffman, jr., district judge.

THE UNITED STATES, appellants,
vs.
PEARSON B. READING, appellee.

This cause coming on for hearing at the above stated term, on the record, on appeal from the Board of United States Land Commissioners, appointed to settle private land claims in California, under the act of Congress of March 3d, 1851, and also upon the affidavit of the party claiming, and depositions and proofs taken in this court, and the argument of counsel for the United States, and for claimant, being heard, and the cause fully considered by the court, therefore—

It is ordered, adjudged and decreed by the court, that the judgment of said Board of United States Land Commissioners be confirmed.

It is further ordered, adjudged and decreed, that the said Pearson B. Reading be confirmed in his said title to the land in this case claimed, according to the grant for the same.

(Signed) OGDEN HOFFMAN, JR.,
U. S. district judge.

Endorsed: "Filed October 31st, 1853.
"JNO. A. MONROE, *Clerk.*"

At a special term of the district court of the United States of America, for the northern district of California, held at the court-house in the city of San Francisco, on Saturday, the 29th day of October, in the year of our Lord one thousand eight hundred and fifty-three.

Present, the honorable Ogden Hoffman, jr., district judge.

THE UNITED STATES, appellants,
vs.
PEARSON B. READING, appellee.

On reading the application, filed by the United States district attorney, praying an appeal from the decision rendered herein to the

Supreme Court of the United States, it is ordered that said appeal be granted.

Endorsed: "Filed October 31st, 1853.

JOHN A. MONROE, *Clerk*."

THE UNITED STATES, appellant,
vs.
PEARSON B. READING, appellee.

To the honorable the Supreme Court of the United States.

The appeal of the United States, the above appellant, respectfully showeth, that on the ninth day of February, 1852, the above named appellee filed a claim before the Board of United States Commissioners for ascertaining and settling the private land claims in the State of California, under the act of Congress of March 3d, 1851, praying for their confirmation of his right and title to certain lands therein described.

That, on the 18th day of December, 1852, a final decree was made by said board of commissioners, confirming said claim, wherein it was in substance adjudged that the said appellee had a good and lawful right and title to said lands described in said claim.

That, after such final decree, an appeal was duly taken according to law therefrom to the district court of the United States for the northern district of California, and the cause was removed thereby into the said district court, and there tried anew; and such proceedings were had in said district court, that afterwards, to wit, on the 29th day of October, A. D. 1853, the said district court made a final decree, whereby it was decreed that the said decree of the said board of commissioners be in all things confirmed.

Which said decree of the said district court is, as the counsel for this appellant is advised, erroneous, and ought to be reversed.

Wherefore this appellant appeals from the whole of said decree of said district court, to the Supreme Court of the United States; and respectfully prays, that the said decree of the said district court, and all the pleadings, evidence, and proceedings in said cause, may be sent to the Supreme Court of the United States, without delay; and that the said Supreme Court will proceed to hear the said cause anew; and that the said decree of the district court, and every part thereof, may be reversed, and a decree made rejecting said claim, with costs, against the said appellee, or such other decree as to the said Supreme Court shall seem just.

(Signed) S. W. INGE,
Counsel for United States, appellant.

Dated, San Francisco, October 29th, 1853.

NORTHERN DISTRICT OF CALIFORNIA,
United States district court.

I, John A. Monroe, clerk of the district court of the United States

for the northern district of California, do hereby certify that the foregoing and annexed pages from one to 123, both inclusive, contain a full and true transcript of the record, testimony, &c., deposited under his hand and seal by George Fisher, secretary, &c., from the board of U. S. land commissioners, and also all the pleadings, evidence, orders, and judgment, as shown by the papers on file, and the records of this court, in the case of Pearson B. Reading, appellee, *ads.* The United States, appellant, to this court.

In testimony whereof, I have hereunto set my hand and affixed the seal of this court, the 31st day of October, A. D. 1853, and [SEAL.] of the independence of the United States the seventy-eighth.

JNO. A. MONROE, *Clerk.*

SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES, appellants,
vs.
PEARSON B. READING.

It is stipulated by the counsel for the parties in this cause, that the annexed depositions of Samuel J. Hensley and Henry L. Ford may be printed and used on the argument thereof, as a part of the record herein.

Dated Oct. 22, 1855.

A. H. LAWRENCE,
Of counsel for appellee.
C. CUSHING,
Atty. Gen'l.

No. 28—Pearson B. Reading.

OFFICE OF THE BOARD OF COMMISSIONERS OF
CALIFORNIA LAND CLAIMS,
San Francisco, March 27th, '52.

Deposition of Samuel J. Hensley.

On this day, before Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Samuel J. Hensley, a witness produced in behalf of the claimant, Pearson B. Reading, being No. 28 on the docket of the commissioners, and, after being duly sworn, testified as follows.

The U. S. law-agent being notified and attending.

Questions by claimant.

Quest. 1st. What is your name, age, and place of residence?

Ans. My name is Samuel J. Hensley; my age about 35 years; my place of residence San José.

Quest. 2nd. How long have you resided in California, and in what part of it?

Ans. Since the autumn of 1843, and have resided most of the time in Sacramento valley.

Quest. 3rd. Are you acquainted with Pearson B. Reading; and how long and where have you known him?

Ans. I have been acquainted with him since 1843, on my coming to this country, and have known him ever since.

Quest. 4th. Do you know, or not, whether a grant of land was made to said claimant by the Governor of California?

Ans. I have seen a letter purporting to be a grant or document from Michel Torena to Pearson B. Reading, bearing date December, 1844.

Quest. 5th. What do you know of the location and boundaries of said land?

Ans. In February, 1844, I was on the head of the Sacramento, raft-

ing logs down the river; saw this place, and recommended it to Mr. Reading. He asked me to give him such boundaries as I would take for myself if I wished to obtain it. I did so, and gave him the boundaries, to wit: Commencing at the mouth of Mud creek, since known as Salt creek, (and in Spanish called Arroyo Lodoso or De Lodo.) I gave it the name of Mud creek myself, and it has since then been called either Mud or Salt creek; the miners call it Salt creek; it empties into the Sacramento river; thence down the Sacramento to the mouth of Cotton Wood creek; thence in a westerly direction up the Cotton Wood creek, following the east bluff of said creek one league; thence northerly to Mud creek, striking one league from its mouth; thence down said creek to its mouth, the place of its beginning. There is an island called Bloody island in the Sacramento, named by myself, in consequence of a battle with the Indians, in which I was personally engaged; which island still retains that name, and said island is called by the Mexicans "Isla de Sangre." This island is opposite the mouth of Cotton Wood creek; the head of it being distant about two hundred yards from the mouth of said creek.

Quest. 6th. Where does the claimant now reside?

Ans. He lives on the land above described by me as having been granted to him.

Quest. 7th. How long has he occupied that place?

Ans. In August, 1845, I spent ten days on the place with him, looking out suitable locations for fields and building spots. He decided on a place, and left a Frenchman named Julian to build a house and keep possession. He placed horses on the place at that time, and soon after this time he placed a quantity of cattle on the said land. The Frenchman went on and built a house on the site selected, which was afterwards burned down by the Indians. The Frenchman was killed afterwards by the Indians, and the war breaking out between the United States and Mexico, Major Reading joined the battalion under Col. Frémont.

Quest. 8th. What are the improvements made by claimant on said lands, and at what time were these improvements made?

Ans. In 1845, there was a small house and corral built by the Frenchman Julian for Mr. Reading. In 1846, nothing was done in consequence of the war. In 1847, Mr. Reading went on the place with horses and cattle. He built a house, and put about forty acres of land under cultivation. The said house is the same in which Mr. Reading now lives. He has increased the improvements and cultivation annually, and, at the present time, he has about two hundred acres in a state of cultivation. He has also fruit trees and grape vines growing in the place.

Cross-interrogatory of the United States Law-Agent.

Quest. 1st. Have you personal knowledge of all the facts stated by you in answer to interrogatories 6, 7, and 8; and if not, state as to any of them how you learned them?

Ans. Yes; I have personal knowledge of all the matters which I have stated, positively as of my own knowledge.

(Signed) SAMUEL J. HENSLEY.

Sworn to and subscribed before me, this 27th day of March, 1852.

HARRY J. THORNTON,
Comm'r.

No. 28—*Pearson B. Reading.*

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS,
San Francisco, March 29th, 1852.

Deposition of Henry L. Ford.

On this day, before me, Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Henry L. Ford, a witness produced in behalf of Pearson B. Reading, claimant, being No. 28 on the docket of the commissioners; being duly sworn, testifies as follows.

The law-agent was notified and attended.

Questions by claimant.

Quest. 1st. What is your name, age, and place of residence?

Ans. My name is Henry L. Ford; my age about 29; my place of residence, Colusi county, State of California.

Quest. 2nd. Do you know Pearson B. Reading, the claimant in this case, and how long have you known him?

Ans. I do know him, and have known him since the year 1844, in July, at Sutter's fort, New Helvetia.

Quest. 3rd. Do you know the geographical position of Rancho Buenaventura or Reading grant, and what are they?

Ans. I do know it. It is a tract of land situated on the west bank of the Sacramento river, commencing at a point known as the mouth of Cotton Wood creek; running thence in a northerly direction along the bank of Sacramento river, to the mouth of a creek commonly known by the name of Mud or Salt creek—the miners usually call it Salt creek; thence westerly one league, to the best of my information; thence in a southerly direction one league to the mouth of Cotton Wood creek. It is situated, by land, about 178 miles north of the city of Sacramento.

Quest. 4th. When did you first visit that portion of the country, and what was the occasion?

Ans. I first visited that part of the country in the month of March, 1846. It was on account of an outbreak of the Indians; a company was raised for the purpose of quelling the same, and I formed one of the company.

Quest. 5th. Was any white person then living on said rancho?

Ans. There was a Frenchman by the name of Julian in the employ, at that time, of Mr. Reading. He had been forced at that time to